REPUBLIC OF KENYA

Report of the National Task Force on Coffee Sub-Sector Reforms

Chairperson/Alternate Chairperson
Prof. Joseph Kieyah and
Dr. Richard Leresian Lesiyampe

Presented to:

H.E. Uhuru Kenyatta, C.G.H.
President of the Republic of Kenya and Commander-in-Chief of the Kenya Defence Forces

May, 2016

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LETTER OF TRANSMITTAL

Date: 6th May, 2016

H.E. Uhuru Kenyatta, C.G.H.
President of the Republic of Kenya and Commander-in-Chief
of the Defence Forces.
State House,
NAIROBI.

Your Excellency,

RE: REPORT OF THE NATIONAL TASK FORCE ON COFFEE SUB-SECTOR REFORMS

Your Excellency, in exercise of the powers vested on you by the Constitution and Laws of Kenya, you appointed the National Task Force on Coffee Sub-sector Reforms vide Gazette Notice No.1332 of 4th March, 2016, for an initial period of three weeks from the date of gazettement, a period you subsequently extended for another twenty days.

The Task Force was required to review the entire coffee value chain and identify areas that require interventions such as production, processing and marketing of coffee. It was also to examine the existing policy, institutional, legislative and administrative structures and systems in the coffee industry and recommend comprehensive reforms among other key issues. The Task Force undertook its assignment diligently from March to April, 2016.

We now have the great of pleasure and honour to submit our report to Your Excellency and to express our gratitude for the opportunity to make our humble contribution towards reforming the coffee sub-sector in Kenya.

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PROF. JOSEPH KIEYAH; JD, PhD
(Ag. Programmes Coordinator and Principal Policy Analyst, Kenya Institute for Public Policy Research and Analysis (KIPPRA)
(Chairperson)

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DR RICHARD LERESIAN LESIYAMPE; PhD (C.B.S.)
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NELSON GICHABA
Member

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CHRISTINE KANINI
Member

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JOSEPH KOSKEI
Member

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DANN MWANGI
Joint Secretary

JASPER MBIUKI
Joint Secretary

The National Task Force On Coffee Sub-Sector Reforms Members and the Secretariat

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ABBREVIATIONS AND ACRONYMS

AFFA	Agriculture, Food and Fisheries Authority
ASDS	Agricultural Sector Development Strategy
CBD	Coffee Berry Disease
CBK	Coffee Board of Kenya
CD	Coffee Directorate
CDA	Coffee Development Authority
CDS	Central Depository System
CDSC	Central Depository and Settlement Corporation
CDU	Central Depository Unit
CE	Commodities Exchange
CLR	Coffee Leaf Rust
CMA	Capital Markets Authority
COTEPA	Coffee and Tea Parliamentary Association
CRI	Coffee Research Institute
DOJ	Department of Justice
ECX	Ethiopia Commodity Exchange
FAQ	Fair Average Quality
GDP	Gross Domestic Product
ICA	International Coffee Agreement
ICO	International Coffee Organization
KALRO	Kenya Agricultural and Livestock Research Organization
KCPTA	Kenya Coffee Producers and Traders Association
KCTA	Kenya Coffee Traders Association
KIPPRA	Kenya Institute for Public Policy Research and Analysis
KPCU	Kenya Planters Cooperative Union
MCTA-EA	Mild Coffee Traders Association of East Africa
MOAFL	Ministry of Agriculture, Fisheries and Livestock
MOICT	Ministry of Information Communication and Technology
MTP	Medium Term Plan
NCE	Nairobi Coffee Exchange
NT	National Treasury
OAG	Office of the Attorney General
SACCOs	Savings and Credit Cooperative Societies

FOREWORD

Coffee was first planted in Kenya in 1893 in Taita Hills and was reserved for Europeans until 1930s, when the privilege was extended to Africans in Kisii and Meru on experimental basis. Presently, coffee is grown in 31 counties by 2 distinct categories of farmers; smallholders and estate. The smallholders are the majority, at 700,000, and are organized into cooperatives, whereas the estate farmers are 4,000. The sub-sector supports approximately 5 million people through forward and backward linkages.

The production of coffee during Kenya's independence in 1963 was 43,778 Metric Tonnes (MT) and it substantially increased to a high of 128,926 MT in year 1987/1988. However, following the collapse of International Coffee Agreement in 1989, production of coffee went into a steady decline and coupled with other key challenges, production today is estimated at 40,000 MT.

Currently, coffee sub-sector is facing unprecedented challenges which have drastically affected the production levels. Key among them; low earnings from coffee despite its premium quality, delayed coffee payments, mismanagement and inefficiencies in cooperatives, restrictive coffee laws, high cost of production and lack of direct access to the trading floor.

In this respect, His Excellency the President appointed the National Task Force on Coffee Sub-Sector Reforms to examine these challenges and recommend comprehensive strategies to transform the subsector. In conducting this assignment, the Task Force was exhorted by H.E. the President to always ask, (a) *"How will the small-holder coffee farmer maximally benefit from his coffee?* "and (b) *"How can the coffee value chain be made efficient and affordable for the smallholder farmers?"*

In execution of its mandate, the Task Force consulted key public and private institutions that deal with coffee, held public participation meetings in nine counties, invited members of the public to submit memoranda, considered other successful coffee models from countries such as Ethiopia, Columbia and Brazil and undertook extensive literature review.

Above all, the Task Force undertook a benchmark exercise by visiting Othaya Cooperative Society and Murang'a Farmers Cooperative Union in Nyeri and Murang'a counties, respectively. The review identified cardinal ways of enhancing coffee farmers' income: review of laws governing the sub-sector; providing adequate and affordable inputs to farmers at the production stage; vertical integration of cooperatives in the coffee value chain; effective management of cooperatives; and direct access of farmers to Nairobi Coffee Exchange.

This report, therefore proposes key recommendations, which are aimed at transforming the coffee sub-sector. In arriving at these recommendations, the Task Force was cognizant of the need to provide a practical and cost effective framework for their implementation.

PROF. JOSEPH KIEYAH
(Ag Programmes Coordinator and Principal Policy Analyst, Kenya Institute for Public Policy Research and Analysis-KIPPRA)
Chairperson

DR RICHARD LERESIAN LESIYAMPE
(Principal Secretary, The State Department of Agriculture)
Alternate Chairperson

ACKNOWLEDGEMENT

The Task Force registers its profound gratitude to many individuals and institutions that supported the course of this assignment.

First, His Excellency the President Uhuru Kenyatta, C.G.H., for entrusting us to undertake this rigorous exercise. This being the first time Government is undertaking such a study after the enactment of Constitution 2010 and repeal of Coffee Act 2001, it is a clear demonstration of the commitment and desire on the part of H.E. the President to reform the coffee sub-sector with the sole aim of enhancing the coffee growers' income.

Second, the Task Force would like to express its sincere appreciation to Mr. Joseph Kinyua, E.G.H. (Chief of Staff and Head of Public Service), and Mr. Willy Bett (Cabinet Secretary, Ministry of Agriculture, Fisheries and Livestock) who provided financial, and other logistical support; and Prof. Githu Muigai, E.G.H., SC. (Attorney General) for providing us with human resource.

Third, The Task Force is indebted to the Task Force Members, Joint Secretaries and Technical Committee members. We are profoundly grateful to the Joint Secretaries–Mr. Dann Mwangi, and Mr. Jasper Mbiuki- for providing tireless professional and administrative support to the Task Force. Similarly, we are grateful for the immense technical support provided by members of the Technical Committee composed of the following: Mr. Joseph Nge'tich, (Technical Advisor, Deputy Director of Agriculture), Ms. Elizabeth Ng'ang'a (Drafter, OAG and DOJ), Ms Muthoni Kanyugo (Legal Researcher, OAG and DOJ), Ms Rachel Mbugua (Legal Researcher, OAG and DOJ), Mr. Motari Matunda (Legal Researcher, OAG and DOJ), Mr Evans Rioba (Researcher, Presidency), Ms Stella Mogeni (Researcher, Presidency), and Mr. Job Kimani (Data Analyst, Presidency).

Four, we appreciate the invaluable support provided by the following support staff: Coordinator, Ms. Sheila Kiambati; Assistant Coordinators, Mrs. Jestina Hanjari and Mr Tom Odhiambo; Records Officer, Mr. Francis Waga; Executive Secretaries, Ms. Margaret Ngaruiya, Ms. Ruth Wainaina, Ms Christine Mwenja and other subordinate staff.

Finally, we are grateful for input provided by various government institutions towards this work such as: Ministry of Interior and Coordination of National Government; Ministry of Agriculture, Fisheries and Livestock and Fisheries; Ministry of Industry, Investment and Trade; Kenya Agricultural Research and Livestock Organization and its institutes; Agriculture, Fisheries and Food Authority and its directorates;

Kenya Tourism Board; Capital Markets Authority; Export Promotion Council; Council of Governors; Members of Parliament from Coffee Growing Zones; and all individuals and institutions who presented memoranda before the Task Force.

PROF. JOSEPH KIEYAH
Chairperson
National Task Force on Coffee Sub-Sector Reforms

DR. RICHARD LERESIAN LESIYAMPE
Alternate Chairperson,
(Principal Secretary, The State Department of Agriculture)

EXECUTIVE SUMMARY

The once thriving Coffee sub-sector, which was a steady and reliable source of livelihood for millions of Kenyans, and which enjoyed national prominence as the biggest foreign currency earner faces many challenges today. These challenges are manifested in the steady decline of coffee production from 130,000 Metric Tonnes (MT) to an average of 40,000 MT. They are attributable to complex interrelated factors along the value chain, coupled with weak enforcement of policy and regulation. In essence, coffee farmers disproportionately bear the burden of the value chain including the regulatory burden in form of statutory levies. Consequently, although the coffee farmers' earnings are relatively poor, they have to wait for 6 to 8 months before they receive their proceeds.

In light of this background, on 4th March 2016, His Excellency the President, Uhuru Kenyatta, appointed the National Task Force on Coffee Sub-Sector Reforms. The President charged the Task Force to review the entire coffee value chain and identify areas requiring interventions such as production, processing and marketing of coffee; examine the existing policy, institutional, legislative and administrative structures and systems in the coffee industry; and recommend comprehensive reforms among other key issues.

This executive summary provides an overview of the recommendations of the Task Force, which met in March and April 2016 in Nairobi, held public participation forums in 9 towns covering 31 coffee growing counties, and received memoranda from various individuals and institutions.

The Task Force recommendations, each with action items, are organized around eight main "pillars: "Coffee Sub-Sector Legal Reforms, Coffee Sub-Sector Subsidy Programme, Establishment of Coffee Cherry Advance Payment Scheme, Institutional Support, Youth Involvement in Coffee Sub-Sector and Promotion of Local Consumptions, Modernization of Nairobi Coffee Exchange, Marketing of Kenyan Coffee, and Audit of Debts and Debts Waiver-

PILLAR ONE: Coffee Sub-Sector Legal Reforms

The Task Force noted that the current laws governing the coffee sub-sector have created a byzantine coffee industry structure that do not allow farmers to freely participate in coffee value chain and enjoy their proprietary rights as enshrined in Constitution, 2010. Therefore, the Task Force recommends; enactment of new coffee sub-sector regulations, amendment of some sections of Crops and AFFA Acts, 2013 and Cooperative Act, 2004, review and fast track of enactment of both

Warehouse Receipt Systems Bill, 2015 and Geographical Indication Bill, and incorporation of Nairobi Coffee Exchange into a public company limited by guarantee. This exercise will cost approximately KSh. 100 Million.

PILLAR TWO: Coffee Sub-Sector Subsidy Programme

The Task Force took cognizant of the fact that both coffee production and farmers earning have drastically reduced. It therefore recommends establishment of a three-year subsidy programme that will cost KSh. 1.21 Billion in 2016/2017 Financial Year and KSh. 2.47 Billion in the next two financial years. This fund will finance the following; fertilizer subsidy, rehabilitation of pulping stations (digital weighing machines, ICT, electrification and piping of clean water), provision of planting materials and research and extension services. The capacity building component will be jointly undertaken by National and County Governments. It's estimated cost is KSh. 3.2 Billion, of which national government will contribute KSh. 200 Million and coffee growing counties KSh. 3 Billion.

PILLAR THREE: Establishment of Coffee Cherry Advance Payment Scheme

The Task Force established that delay in coffee payment is a major problem that confronts farmers and dissuades the youth from coffee farming. It also makes coffee farmers borrow expensive loans which lowers their earnings. The Task Force recommends establishment of a cherry advance fund of KSh. 2.1 billion in 2016/2017 Financial Year that will be boosted with KSh. 500,000,000 Million in 2018/2019 Financial Year due to projected increase of coffee production. This fund will be administered by Commodities Fund and a Central Depository Unit.

PILLAR FOUR: Modernization of Nairobi Coffee Exchange

The Task Force acknowledges the critical role played by NCE in trading of coffee. In this respect, it recommends establishment of Nairobi coffee exchange as a body corporate (preferably public company limited by guarantee), procurement of a modern exchange trading system to enable virtual trading, appointment of a Central Depository agent licensed by Capital Markets Authority, and capacity building of the members (farmers, traders/brokers), and marketing. These changes will promote efficient price discovery mechanisms and direct access by farmers. The estimated cost will be KSh. 228 Million.

PILLAR FIVE: Youth Involvement in Coffee Sub-sector and Promotion of Local Consumptions

The Task Force noted that the average age of coffee farmers is 60 years and most youth are disinterested in coffee farming. To attract the youth, the Task Force proposes that 50% of the estimated KSh. 200 Million (being catering levy paid by coffee houses) be ring-fenced to establish a coffee business school at Utalii college, with a board consisting of key coffee stakeholders. The school will train the youth on roasting, retail (barrista) and management of coffee houses. Other incentives include waiver of import duty on commercial coffee house equipment (just like bakery equipment), and support value addition initiatives such as street coffee vending, coffee kiosks and youth-owned coffee house start-ups.

PILLAR SIX: Institutional Support

The Task Force established that there are serious institutional weaknesses in key institutions that deal with the coffee sub-sector. To address this, the Task Force proposes financial and technical support amounting to KSh. 350 Million in 2016/2017 Financial Year to State Department of Cooperatives, Coffee Research Institute, Nairobi Coffee Exchange, and Coffee Directorate.

PILLAR SEVEN: Marketing of Kenyan Coffee

The Task Force recognizes the importance of local and global positioning of Kenyan coffee, and therefore it proposes setting aside of KSh. 200 Million to brand and promote Kenyan coffee locally and internationally. This exercise will be led by government institutions, but with involvement of farmers.

PILLAR EIGHT: Audit of Debts and Debt Waivers

The Task Force noted government committed in 2011 to waive loans owed by farmers to cooperative societies and unions amounting to KSh. 1.3 billion and Stabex Funds amounting to KSh. 1.7 billion. It also noted there are other debts owed to various financial institutions. The Task Force therefore recommends that the government honours its promise to waive debts owed to cooperative societies, unions and Cooperative Bank. However, the true status of these debts is uncertain and in some situations financial institutions are still holding farmers' collateral despite debt waiver and therefore a further audit of these debts should be done before payments are made. More so, audit of all debts owed by farmers to various institutions should be done.

CHAPTER ONE: INTRODUCTION

1.1 Introduction

This is the report of the National Task Force on Coffee Sub-Sector Reforms, appointed by His Excellency the President, Uhuru Kenyatta, Vide Gazette Notice No.1332 of 3rd March, 2016. The Task Force's tenure was from 3rd of March, 2016 to 24th March, 2016, and later extended to 14th April, 2016 vide Gazette Notice No. 2112 of 2016.

The Task Force held the first meeting on 7th March 2016 at its office situated at National Hospital Insurance Fund (NHIF) Building, 10th Floor, Wing 'B'.

1.2 Background

The problem in the coffee subsector is manifested in the decline of export earnings from US$500 million in the 1990s to less than US$ 150 million in 2015. This is attributable to low productivity of 2 Kgs per coffee tree against a potential of 30 Kgs per tree on average, uprooting of coffee trees, high cost of inputs especially fertilizer and pesticides, limited credit access and poor institutional governance weakness. Moreover, the existing laws that govern coffee value chain have not been realigned with the Constitution of Kenya 2010 and other laws.

The aforementioned poor performance triggered public outcry from coffee farmers and other stakeholders that attracted the government's attention. Consequently, His Excellency the President, Uhuru Kenyatta, established the Task Force on Coffee Sub-Sector Reforms to review the entire coffee value chain to identify areas of interventions in production, processing and marketing of coffee of the value chain. The Task force also examined the existing policy, institutional, legislative and administrative structures in the coffee subsector and recommended comprehensive reforms among other key issues.

1.3 Terms of Reference of the Task Force

The Terms of Reference of the Task Force (TF) were set out in paragraph two of the Gazette Notice No. 1332 as follows: -

(a) Conduct consultations with coffee stakeholders in the country;

(b) Undertake literature review to learn best practices utilized by farmers in other coffee producing countries;

(c) Review the entire coffee value chain and identify areas requiring interventions such as production, processing and marketing of coffee in order to enhance earnings of coffee farmers and participation of the youth in the coffee industry;

(d) Examine the existing policy, institutional, legislative and administrative structures and systems in the coffee industry and recommend comprehensive reforms;

(e) Review the marketing positioning of Kenyan coffee locally and globally;

(f) Review the financing of coffee industry, payments to farmers and any other matter related to the coffee sector in the country;

(g) Recommend a coffee value chain that-

(i) Substantially increases the farmers' incomes;

(ii) Provides sufficient financial support for production, training, rehabilitating and modernizing factories, roasting and retail to promote local consumption;

(iii) Ensures best processing and marketing practices to optimize returns based on transparency, fair trade and constitutional property rights; and

(h) Develop a prioritized implementation matrix clearly stating the immediate, medium and long term coffee sector reforms and the resultant budgetary requirements.

Paragraph 5 provides the guidelines of how the Task Force is supposed to conduct its operations. It states: -

In performance of its functions, the Task Force may: -

(a) Solicit, receive and consider written memoranda or information from the public and players in the coffee industry; and

(b) Conduct any other activities required for effective discharge of its mandate.

1.4 Methodology

The Task Force undertook the following initial activities in order to effectively discharge its mandate: -

a) Setting up a Secretariat to carry out the administrative and logistical aspects of its mandate;

b) Established Committees consisting of members of the Task Force to examine various thematic issues within the coffee value chain;

c) Formed Technical Committees of the Task Force comprising researchers from the relevant Ministries and Departments to provide research and advisory services to the Task Force;

d) Held an induction meeting for members of the Task Force in order to interpret Terms of Reference (TORs) and sensitize them on the TORs and the expected outputs of the Task Force;

e) Adopted operational rules of the Task Force and other ground rules;

f) Held public participation forums in 9 towns covering 31 coffee growing counties;

g) Considered memoranda from members of the public and various stakeholders in the coffee sub-sector (Annex 1);

h) Visited selected coffee institutions and stakeholders;

i) Analyzed data and memoranda received from various individuals and institutions;

j) Prepared an interim report of the Task Force giving highlights of some short term and long term intervention measures that the government is supposed to undertake;

k) Prepared the final report that documented the work of the Task Force and set out the recommendations of the Task Force, with the implementation framework.

In line with its ToRs, the Task Force assessed and interpreted its assignment as follows—

(a) Review the entire coffee value chain and identify areas requiring interventions such as production, processing and marketing of coffee in order to enhance earnings of coffee farmers and participation of the youth in the coffee industry

Based on the principal of private ownership and the farmer as the principal, and taking cognizance of the existence of two main coffee value chain (smallholder and estate), the analysis tracks the coffee product by: (i) an assessment of the inputs market; (ii) an analysis of processing performance; (iii) an institutional analysis to shed light on the role of key regulatory institutions such as Agriculture Fisheries Food Authority (AFFA) through the Coffee Directorate and Nairobi Coffee Exchange (NCE) including Kenya Agricultural and Livestock Research Organization (KALRO) through Coffee Research Institute; and (v) a price analysis including cost and revenue payments. In addition, the analyses explored the constraints and opportunities for youth participation.

(b) Examine the existing policy, institutional, legislative and administrative structures and systems in the coffee industry and recommend comprehensive reforms

The analysis examined first, the relevant agricultural policies mainly related to production of coffee, input supply, and service delivery including extension and research. Second, it also interrogated the relevant policies on processing and marketing. Third, the analysis reviewed the role and functions of national and local institutions, in particular the contractual relationships between the smallholder farmers and the cooperatives, and other agencies. Fourth, the analysis reviewed the legal and administrative framework that governs the coffee sub-sector as well as the cooperatives.

(c) Review the marketing positioning of Kenyan coffee locally and globally

The TF reviewed the local coffee marketing strategies, consumption and extent of youth participation in the process. It explored the possibilities of enhancing coffee consumption at national and local levels. In addition, it examined the status and opportunities of promoting Kenyan coffee internationally and branding.

(d) Review the financing of coffee industry, payments to farmers and any other matter related to the coffee sector in the country

The TF reviewed the sources of development funding for the sub-sector, both public and private. It tracked the coffee proceeds from the auction to the coffee farmer, including the levies and deductions made along the chain. It further examined the factors like debts among others that affect the farmers' payouts and their timeliness.

(e) Recommend a coffee value chain that substantially increases the farmers' incomes; and provides sufficient financial support for production, and training

Rehabilitating and modernizing factories, roasting and retail to promote local consumption ensures best processing and marketing practices to optimize returns based on transparency, fair trade and constitutional property rights.

Upon the completion of a thorough analysis informed by literature review, public consultation, presentation of key informants, reports from sub-committees and focus group discussions on various recommendations were made. In addition, financial and legal implications of some of the recommendations were highlighted.

(f) Conduct consultations with coffee stakeholders in the country and undertake literature review to learn best practices utilized by farmers in other coffee producing countries

In line with constitutional requirement of public participation, the Task Force held public participation forums in 9 towns covering 31 counties and invited memorandums from members of the public. It also reviewed best practices of coffee husbandry in other coffee producing countries such as Ethiopia and Brazil. The analysis of the public views received and best practices model assisted in identification and verification of the problems and solutions in the Kenyan coffee sub-sector.

1.5 Structure of the Report

The analyses of this report are based on the proposition that the coffee farmers are the principals because they own coffee, and the others in the value chain are agents. The remaining structure of the report is as follows. Chapter 2 expounds on the historical background of sub-sector and its structure. Chapter 3 provides the coffee value chain analysis, including production and processing challenges. Chapter 4 covers the analysis of coffee prices and payment of the proceeds to the farmer. Chapter 5 deals with the challenges of policy, legal and institutional framework. Chapters 6 and 7 offer recommendations and implementation plan, respectively.

CHAPTER TWO: BACKGROUND INFORMATION

2.1 History of the Coffee Sub-sector

Coffee was first planted in Kenya in 1893 in Taita Hills and was reserved for Europeans until 1930s when the privilege was extended to Africans in Kisii and Meru on experimental basis. The 1932 Coffee Industry Ordinance established an intrusive regulatory framework, which viewed coffee as public property, mainly for foreign exchange earnings. The framework entailed stringent control of all activities related to coffee. It prohibited coffee planters from exporting their coffee or selling it except with the consent of the Coffee Board, among other prohibitions. The Ordinance later was amended and eventually consolidated with the Coffee Marketing Ordinance to become the Coffee Ordinance.

After independence, the Coffee Ordinance became Coffee Act and retained the licensing regime to control the value chain. The independent government also created the Coffee Development Authority (CDA) to provide extension services and funding of wet mills for small-holder farmers under the ambit of cooperatives. To guarantee cherry supply to cooperatives, an amendment of Coffee Act empowered the Minister in charge of agriculture to prescribe that a farmer owning less than 20 acres should join cooperatives. Those with 20 acres and above were called 'planter', and were granted pulping licenses. The threshold for mandatory membership of cooperatives has since fallen to five acres as 'larger' smallholder farmers demanded for independence from pooling their coffee with others without fair compensation.

Shortly after independence, cooperative societies emerged as strong platforms for farmers' collective economic empowerment through formation of District Cooperative Unions. These unions provided extension services, inputs, food, and offered loans for school fees and development, as well as bursaries for poor families. The unions also offered banking services to their member societies, and received sales proceeds from the Coffee Board of Kenya (CBK) through Kenyan Planters Cooperative Union (KPCU). The unions were affiliated to KPCU since it was the sole miller. It offered them loans to lend to farmers against the parchment deliveries. However, after the 1977, coffee boom coupled with mismanagement of key coffee institutions necessitated reforms.

The collapse of International Coffee Agreement (ICA) in 1989 precipitated major decline in coffee prices globally and locally and ignited the call for reforms in the coffee sub-sector in Kenya. These initiatives for reforms gained momentum in 1993, and were partly pushed by the Coffee and Tea Parliamentary Association (COTEPA). Consequently, the government licensed three millers to compete with KPCU. As part of the reforms, the threshold for estate licenses was reduced to five acres.

Consequently, the number of small and medium estates increased significantly. These reforms coupled with political interferences largely contributed to disintegration of cooperatives and unions into smaller units. As a result, the farmers lost some of the benefits of economies of scale and their production costs increased while revenues dwindled. The slow pace of liberalization process precipitated the establishment of a Task Force in 1995 whose findings are contained in the "Report of the Task Force on Liberalization and Privatization of the Coffee Industry".

To enhance the liberalization process along the value chain, the report recommended administrative and legislative actions. On the production, the report recommended ease of licensing burden and promotion of extension services. On processing, the report called for more licensing of the mills, including maintenance of coffee grading and classification. The report proposed measures to promote international coffee consumption. To strengthen and institutionalize transparency, the report had recommended establishment of commodities and futures exchange. It also recommended restructuring institutions, including regulatory agencies, to accommodate liberalization.

Further reforms were undertaken in 2001 following international and domestic pressure to liberalize marketing, which was controlled by CBK. These reforms were embodied in Sessional Paper number 2 of 2001. The marketing function (warehousing, custody of warehouse receipts, auctioning, and payments processing) were granted to millers and marketing agents. Further, the traders and marketing agents formed the Kenya Coffee Producers and Traders Association (KCPTA) to manage the Nairobi Coffee Exchange (NCE).

The Finance Act of 2005 amended the Coffee Act 2001, to introduce a second window of selling coffee referred as direct coffee sales. However, the regulations were never amended to allow the farmers to trade at NCE. The last amendments to the Coffee General rules were undertaken in 2012 to replace KCPTA with a 10 members' ministerial committee to manage NCE. The amendment also barred the grower marketing agents from trading at NCE. While these amendments were effected, the government developed a policy that called for a major shift in form of consolidation and coordination of regulatory and research functions. The policy shift was imbedded in the Agriculture Sector Development Strategy (ASDS) of 2010.

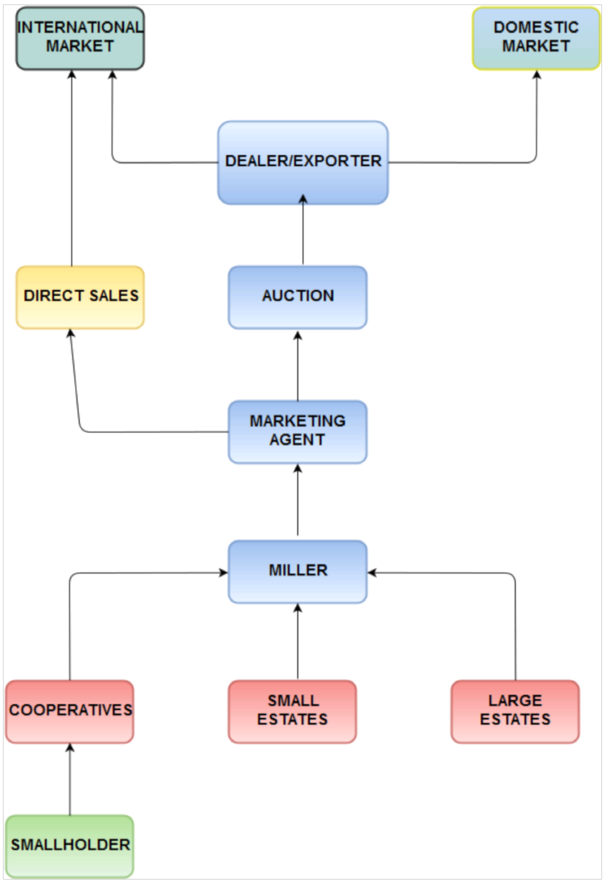
In line with the ASDS, Parliament enacted Agriculture, Food and Fisheries Authority (AFFA) and Crops Act, 2013, which repealed the Coffee Act, 2001. Among others, Coffee Board became a directorate under AFFA, with regulatory oversight on the sub-sector. Since then, the Coffee Directorate has been administering the sub-sector using Coffee General

Rules, which were issued under the repealed Coffee Act, 2001. Although the rules were supposed to operate up to June 2013, initiatives to develop new coffee regulations that are in tandem with the Constitution and developments in the sub-sector have not been finalized. This situation should not be allowed to continue and the TF is therefore proposing new regulations be put in place.

2.2 Structure of the Coffee Sub-Sector

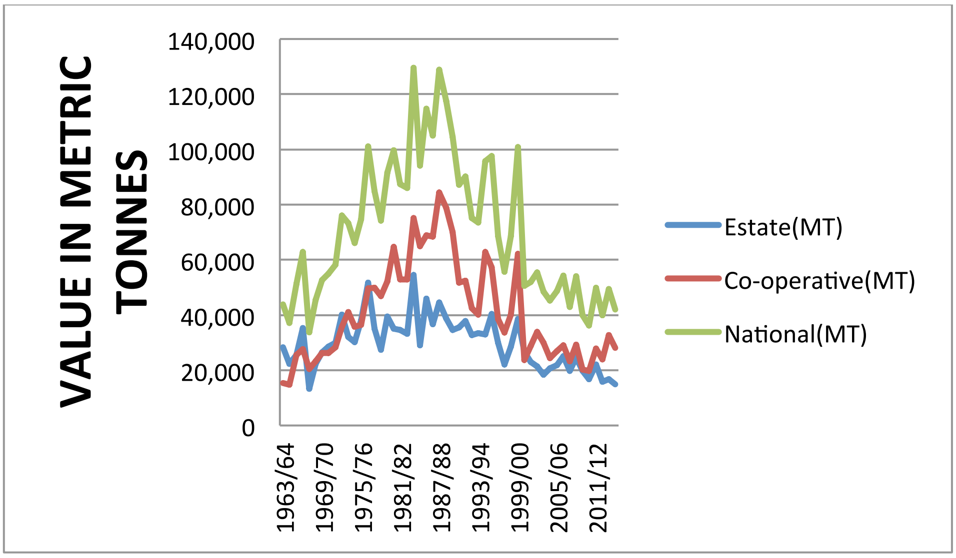
Figure 2.1 illustrates a simplified structure of coffee subsector value chain.

Figure 2.1: A simplified structure of the coffee sub-sector value chain



Coffee is grown in an estimated total acreage of 110,460 hectares that extends to 31 counties (Annex 2). The growers consist of an estimated 700,000 smallholders and 4,000 estate growers (coffee estates with five or more acres of coffee).

Figure 2.2: Coffee production in metric tonnes since 1963 to date



Source: Coffee Directorate

Coffee processing is classified as primary and secondary, which encompasses wet and dry processing respectively. The activities of wet processing encompass cherry sorting, pulping, fermentation, drying and storage. Currently, there are 1,021 pulping stations that are operated by 525 cooperatives societies. An estimated 3, ooo estate farmers operate their own pulping station.

In the secondary processing, licensed millers hull, grade and sort parchment coffee to produce green coffee. There are 18 licensed millers of which half of them are commercial millers, while the rest are private as listed in Annex 3. The millers have a combined milling capacity of over 350,000 Metric Tonnes (MT) on the basis of an 8hour shift. Operating at two or three eight hours shift, the capacity could easily increase to over 500,000 MT.

Commercial marketing agents are authorized to store, trade green coffee on behalf of the grower, process payments and give advance to the growers. Green coffee is stored and auctioned in licensed warehouses within the Nairobi metropolitan area and NCE, respectively. Grower marketer license holders are allowed to market their own coffee through direct sales window. Currently, the license marketing agents, warehousemen, and management agents are 8, 10 and 5, respectively. In summary, the number of actors of the value chain is reflected on Table 2.1.

Table 2.1: Category and numbers of coffee value chain player as of 2015/16

	Category	Size
1	Smallholders farmers	700,000
2	Estates	3,217
3	Cooperatives societies	525
4	Pulping stations	1,021 Cooperatives 3,000 Estates
5	Cooperative unions	10
6	Coffee millers	18
7	Commercial marketing agencies	8
8	Nairobi Coffee Exchange	1
9	Warehousemen	10
10	Management agents	5
11	Licensed coffee dealers	60

Source: Coffee Directorate

Participation in NCE is restricted to licensed marketing agents, and dealers. The 10-member Management Committee manages the operation of the NCE, which has currently 60 dealers licensed by Coffee Directorate to buy and export coffee. However, only 25 are currently active. The auctions are held weekly on Tuesdays, subject to availability of coffee.

In summary, the current structure is complex with multiplicity of players, and farmers playing no major active role beyond production. The **strength, weakness, opportunities and threats** of the current structure are provided below:

Table 2.2: Strengths, weaknesses, opportunities and threats of the current structure

STRENGTHS	WEAKNESSES
a) Ideal climatic conditions b) Pool of coffee knowledge c) Collaboration with International Coffee Organization d) Renowned premium coffee quality – Arabica e) Wealth of research information widely spread in 31 Counties f) Involves a large number growers and their investments g) Low productivity	a) Inadequate extension and advisory services b) Out dated processing and trading technologies c) Poor regulatory enforcements d) Weak governance structures of the coffee cooperatives and other institutions e) Information asymmetry and non-transparency along the value chain f) The farmer bears the total risk of the long value chain g) Restrictive business practice h) Underutilized milling capacity
OPPORTUNITIES	**THREATS**
a) Constitution of Kenya 2010 b) New growing areas c) Untapped domestic and global market d) Commercialization of coffee by products e) Optimization of value addition f) Kenya is a financial and investment hub g) Untapped youth potential h) Irrigated production i) ICT based solutions	a) Climate change b) Competition from other countries c) Competition from other beverage d) Global price volatility e) Illegal coffee hawking and thefts f) Aging population of coffee farmers g) Restrictive regulations on value addition and selling of coffee by farmers

j) Reduction of energy costs	h) Over-regulation and incomplete legislation i) Indebtedness j) Diminishing land sizes and urbanization k) High costs of inputs

CHAPTER THREE: ANALYSIS OF COFFEE VALUE CHAIN

3.1 Introduction

This chapter analyses the critical challenges facing the sub-sector of low production, declining quality, low and delayed payments. With an assumption of private ownership, the analyses track the coffee product through the entire value chain including: (i) an assessment of the inputs market; (ii) an analysis processing performance; (iii) an institutional analysis to shed light on the role of key regulatory institutions like Coffee Directorate under AFFA, Coffee Research Institute under KALRO, and the NCE under AFFA; and (v) a price analysis including cost and revenue payments.

3.2 Production

This analysis mainly focuses on smallholder value chain, despite the dual production structure based on smallholder and estates farming systems. Smallholder farmers contribute over 60 percent of the country's coffee production. However, the smallholder farmers face disproportionately high production costs. Fertilizer is one of the critical inputs in coffee production and it accounts significantly to the proportion of the production cost. However, in the recent past, fertilizer prices have been increasing, thereby contributing more to production costs. Such prohibitive prices have triggered some smallholder farmers to use only manure, and a significant number of farmers do not use either. Furthermore, the weakened extension services have compromised some smallholder farmers' ability to appropriately manage their coffee trees.

In addition, another critical production activity is pest and disease control. It is estimated that 30-35 percent of the costs goes towards diseases and pest control. For instance, it has been documented by CRI, that uncontrolled Coffee Berry Disease (CBD) and Coffee Leaf Rust (CLR), which are the major coffee diseases, can cause over 80 percent loss. The prices of chemicals used for disease control have also significantly increased in the last decade. As a result, 70 percent of smallholder farmers have abandoned the use of these chemicals or use them sub-optimally. The long term solution is adoption of disease resistant coffee varieties like Ruiru 11 and Batian. However, the high adoption costs of the new varieties, shortages in planting materials and lack of awareness, have limited wide scale adoption among smallholder farmers.

In addition to the escalating high production costs, the area under coffee is shrinking due to urbanization. For instance, land prices in the high potential coffee growing regions have been on the rise due to high demand for real estate and lack of land use policy. The situation, if not addressed, may reduce high quality coffee production in the long term.

Studies undertaken in the country also indicate that the average age of a coffee farmer is 60 years. This finding implies that the youth have opted to abandon coffee farming in pursuit of other more appealing enterprises such as dairy and horticulture. Although this finding is interlinked to land ownership, the lack of interest by youth does not augur well for the future of the coffee industry.

In a nutshell, majority of smallholder farmers with half an acre of coffee are making losses, especially when family labour is factored in the cost of production. This is manifested in abandonment and uprooting of coffee trees, and increased poverty in most coffee dominated growing areas.

3.2.1 Recommendations

i. The TF recommends a sub-sector subsidy programme to smallholder farmers and small coffee estates (less than 20 acres). Such subsidy will boost coffee production in the immediate term from the current average production of 2kgs of cherry per tree per year to 8kgs within 2-4 years. The subsidy is to be provided as a package to cater for;

- 300 grammes per tree of Calcium Ammonium Nitrate (CAN) and 250grammes per tree of compound fertilizers for small holder coffee farmers and the small estates. According to CRI, this fertilizer package can raise production per tree from the current average of 2kgs of cherry per tree to 5-10 kgs per tree per year.
- Funds to be provided to CRI to expand production of coffee seed and planting material, and cooperatives to establish and distribute coffee planting mainly for the new varieties, Ruiru 11 and Batian.
- Funds to be provided to finance basic rehabilitation for at least 50 percent (around 500) coffee factories to enable them process coffee.
- Provide funds to cater for capacity building and training of farmers and coffee societies (use of organic manure). The estimated cost of the subsidy programme is at KSh. 1.21 billion for the first Financial Year, 2016/2017, and KSh. 2.47 billion for the next two Financial Years.

Conditions for success

- The fertilizer subsidy level is set at KSh. 1,200 per bag of fertilizer and the programme is to run for three years to maximize impact.
- The distribution channel will be through reformed coffee cooperatives societies and unions, and targeting mechanisms and administration to be agreed upon.

- The subsidy will be offered as a package where coffee farmers will also be supported to adopt new coffee varieties (Ruiru 11 and Batian) by funding CRI to increase its capacity and establish coffee nurseries at each of the 500 coffee societies. The societies will also be given an incentive package (matching grant) to offer technical services to their members. This activity will be geared towards the youth.

ii. ***The TF recommends capacity building to support farmers in coffee husbandry to increase production, training of factory managers on processing, and training of society Board of Management.*** Absence of these services has attracted some millers to provide inconsistent selective support for a fee on need basis. To ensure that all societies benefit from support, a collaborative financial support kitty nested in CRI should be created and any development partners interested in supporting the sector should contribute to this kitty. The provision of extension services should be undertaken together with County governments as these services are devolved.

3.3 Primary Coffee Processing Performance

The primary coffee processing mainly includes processing of cherry to parchment. For smallholders, these functions are carried out in pulping stations owned by Cooperatives. As such, cooperatives remain as facilitative agents that enable the smallholder farmers to draw the benefit of economies of scale. However, evidence from primary and secondary data reveals underperformance of Cooperatives due to internal and external factors. The internal factors on one hand include weak financial and administrative systems and poor governance including farmers' ineffective oversight. On the other hand, the external factors include weak enforcement of various regulations by Departments of Cooperatives at both national and county level.

The oversight vacuum has allowed Cooperatives committees to overstate their operational costs, and allegedly have under-hand deals with millers, marketing agents and other service providers.

These inefficiencies are evident from the Cooperative societies' differences in cherry payment schedules. Between 2011 and 2015, some Cooperative societies consistently paid reasonable amounts for cherry delivered, while others consistently paid poorly. Taking into account the geographical location, the input prices are likely to be similar. Therefore, the variation in cherry payments per kilogram can only be explained by internal factors within the Cooperatives themselves.

3.3.1 Recommendations

i. ***The TF recommends reforms to strengthen and restructure Coffee Cooperative Societies.*** A critical and essential pre-requisite to the revival of the coffee industry and the success of the cherry payment and subsidy programmes is the reforming of the estimated 500 coffee societies and over 1,000 factories spread across the 31 counties growing coffee areas. The main objective of this re-engineering is to address the following areas:

- Although the threshold of charges is capped at 20percent, the TF considers it high and should be capped to not more than15 percent of net earnings of the societies with strict enforcement.
- Encourage the societies to diversify income sources and focus their processes on efficiency.
- The Cooperatives as business centers should be vertically integrated in the coffee value chain to offer wet coffee processing and related services, milling, warehousing and participation on coffee sales, thereby significantly reducing the number of operators in the value chain in line with other best practices in the region and globally. Legal changes, where necessary, will be made to make this a reality. Among proposals is creation of grower miller license.
- Small holder farmers, through the vertically integrated societies, should be allowed to sell their own coffee by presenting one catalogue at the auction and have one point of contact for direct sales.
- Effective and efficient service delivery to members by enhancing society and financial management.
- Review of Cooperative laws to ensure punitive measures for non-compliance of the law.
- Streamline and offer clear guidelines to societies regarding procurement of service providers such as millers to ensure transparency and adhere to the Public Procurement and Asset Disposal Act, 2015. This will offer the much needed transparency and accountability, and avoid underhand deals that currently undermine procurement of such services.
- Strengthen and ensure the regulatory role of Department of Cooperatives at National and County levels is improved. The Department needs to be restructured and given more prominence at the national level as it affects the livelihoods of millions of Kenyans. There is also need to develop linkages between the

Department and Coffee Directorate for effect regulation of cooperatives.

- Put into place administrative and other measures to limit and control the level of borrowings by the societies.
- Pending the establishment of CDU, ensure Cooperatives separate the society/factory operation accounts from farmer payment accounts to ring fence farmers' payments and control operational charges.
- Improve the governance of societies by ensuring that the societies code of Conduct and Chapter 6 of the Constitution are adhered to. Also, explore the possibilities of limiting the term of management committee.

ii. The TF recommends a review of the five acre rule for pulping license: The rule ought to be revised and pulping license issuance be based on having two acres or a production level of at least 20,000 kgs of cherry per year for three-years average. Smallholder farmers with over six years' land lease and other supporting documents like family written agreements ought to be considered. Such legislative action is likely to revitalize the utilization of abandoned coffee farms. Moreover, it will attract youth participation by removing land inheritance barriers that have systematically locked the youth from coffee farming activities. This arrangement should be accommodated in the legal framework.

3.4 Milling Performance

The coffee milling process entails hulling, sorting and grading of parchment to clean coffee. Whereas the liberalization of coffee milling reduced the barriers to entry, it did not trigger competitiveness in form of low milling charges. Instead, due to decline in production, liberalization created over capacity, which increased the milling and hidden costs that are ultimately passed to the coffee farmers. Hypothetically, the failure of the competition to thrive is attributable to the fact that the commercial millers bear minimum risk.

Whereas the milling agreement sets obligations for millers and the growers, in many instances the miller does not safeguard the interest of the farmers. This problem is magnified further with cross ownership between millers and marketing agents. At the same time, due to the technical nature of the milling process, most millers have more critical information, which is not shared with the farmer. In practice, upon receipt of the parchment, the miller determines the quality and grade of the coffee in the absence of the coffee owner. The absence of effective oversight from the government and grower encourages some millers to overstate the milling loss, manipulate grades, interchange coffee ownership, and introduce hidden charges. Based on anecdotal evidence, these activities prevalence has led to loss of volume and reduction of quality.

3.4.1 Recommendations

i. ***The TF recommends regulation and annual publications of milling tariffs and other charges before end of September every year by the Coffee Directorate.***

ii. The TF recommends that for Cooperative growers, the movement permit to millers be restricted within the nearest available mills

iii. Private miller license be converted to grower miller license

3.5 Marketing Performance

The functions of marketing agent include facilitating warehousing of clean coffee, preparation of sale catalogue, sale of coffee at NCE, offering finances and distributing coffee proceeds to various stakeholders. The marketing agents' performance has not been necessarily in the interest of the coffee owner, as evidenced by the public submissions. The marketing agents bear minimum risk in trading because of cross ownership between some marketing agents and the dealers, enhancing their susceptibility to conflict of interest in form of insider trading in favour of dealers. Such susceptibility has been exacerbated on one hand by the absence of effective oversight by the regulator, which has promoted collusion between the agencies and the dealers. On the other hand, the interlinkage among value chain actors has denied coffee farmer, as the principal, the ability to oversee the marketing agents among others. A case in point is the election of incapacitated Cooperative management committee without prerequisite technical knowhow to effectively supervise the marketing agent on behalf of the smallholder farmers. The unintended outcome of such a shortcoming has been marketing strategies that compromise coffee earnings, especially for smallholder farmers who solidify the view that marketing agents' behaviour is an embodiment of unfair trade in the coffee sector.

3.5.1 Recommendations

i. The TF recommends the review of laws to allow coffee growers to directly trade their coffee in the NCE. This entails combining various licenses (pulping, milling, and grower marketer) along the value chain into one grower miller license.

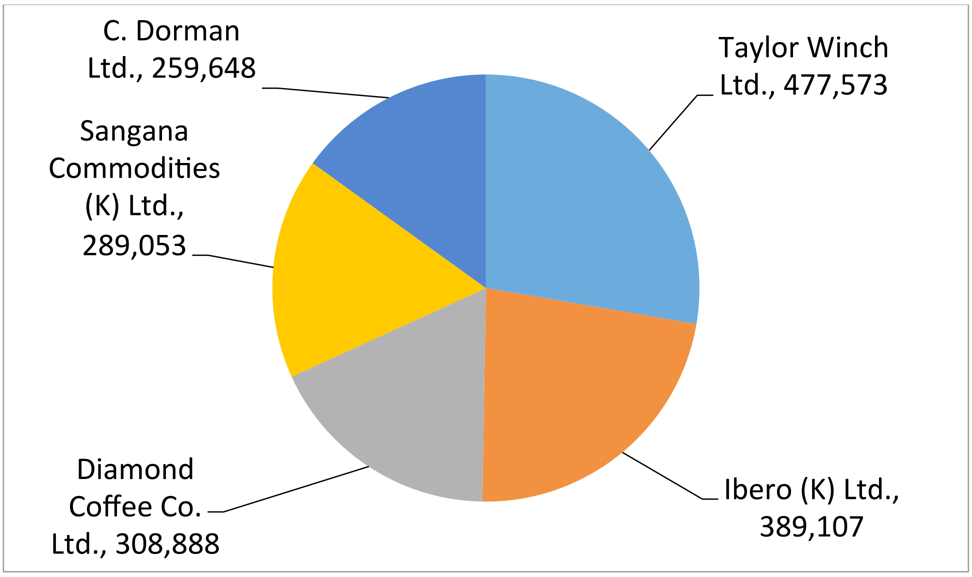
ii. The TF recommends a review of laws to ensure that cross ownership does not exist along the marketing chain. For instance, a coffee dealer or any other entity associated with a dealer, shall not be licensed as a commercial miller or a broker. A code of ethics that specifies the different roles shall be developed by the regulator.

3.6 Nairobi Coffee Exchange

Currently, 90 percent of coffee is traded at NCE, and rest through the direct sale window. The ownership of NCE is vested in AFFA, and held in trust of the coffee subsector by the AFFA. It is managed by a Management Committee which consists of various stakeholders in the coffee industry. Trading in NCE is conducted by registered marketing agents and dealers representing farmers and buyers, respectively. However, the requirements of acquiring a marketing agent license are prohibitive as one must provide a US$ 1 million bank guarantee among other the requirements. Ironically, farmers are not allowed to sell their own coffee at NCE, unless they acquire marketing agent license. The proposed 20,000 MT per annum as the minimum trading threshold would lock out farmers' participation in NCE.

The inaccessibility of the NCE by many players due to stringent licensing requirements makes the exchange lack transparency and effective price discovery mechanism. In this respect, only licensed dealers are allowed to buy coffee at the exchange. For instance, although 60dealers were licensed in the coffee year 2014/15, only a few of them participate and the top 5dealers (Figure 3.1) control a significant share of the total trading volume. These top five dealers include; Talyor Winch, Ibero (k), Diamond Coffee, Sangana Commodities and C. Dorman.

Figure 3.1: Performance of the top five selling dealers at the exchange based on 60 kg bags from 2010/2011 to 2014/2015



Source: Coffee Directorate

The NCE faces legal, financial and operation constraints that hinder its effectiveness. Its legal status is unclear and the validity of the trading rules is questionable. The exchange has limited funding sources, human resources, and outdated infrastructure for example inadequate trading and sample room space, and obsolete ICT systems. In summary, NCE has serious limitations that impede its effectiveness as an independent, reliable and transparent exchange.

3.6.1 Recommendations

i. The TR recommends that the NCE be established as a body corporate and as a public company limited by guarantee.

ii. The TR recommends that the NCE should be modernized and its capacity enhanced. The modernization will entail upgrading its ICT infrastructure nationally and regionally, improve its physical infrastructure including sample room and administrative facilities, improve human resources and eventually relocate to a more suitable location.

iii. The TR recommends that the government establishes Central Depository Unit (CDU) for settlement and payment of coffee proceeds. The establishment of CDU would be a building block towards transformation of NCE to a Commodity Exchange, and it will also eliminate the need of US$ 1 million guarantee, which is a requirement to sell coffee in the auction. It will also reduce delay in payments and be a platform for digitizing coffee payments. Further, it will facilitate direct payment to farmers, thereby eliminating third parties from handling farmer payment. The TF noted that already the tea sub-sector has an established CDU operated by Commercial Banks.

iv. The TF recommends that the NCE creates a sales window to cater for local roasters with appropriate trading rules and catalogue. Such a trading window should enable licensed local roasters to access coffee at the auction by reducing the minimum sales volume to a minimum of even one bag to be bided on US$ terms with an option of paying in KSh. equivalent.

v. The TF recommends that the NCE should establish an office of auctioneer/broker unit. This unit will be tasked with the responsibility of preparing one catalogue for coffee to be offered for sale in each auction and to conduct the auction at the appointed date.

vi. The TF recommends that the NCE be upgraded to a fully-fledged Commodities Exchange (CE) under Capital Markets Authority. Upgrading the NCE is the fulcrum that will fundamentally alter the coffee industry structure to raise the farmer's (and country's) earnings by enabling him/her to sell coffee globally at lower **transaction costs.**

The CE will also eliminate the opaqueness and inaccessibility of NCE that forms the bottleneck of its operations. The upgrading envisages introduction of brokers' license, control of custody by supervising warehouseman, independent payment system, and technology to enable trading from any corner of Kenya/world and efficient operations. The licensed broker will receive selling or buying instructions from clients (farmers, cooperatives, companies, millers, and traders) who will not require a trading license. The Coffee Directorate will issue warehouseman license with accreditation concurrence from Commodities Exchange (CE). The exchange will appoint licensed commercial banks to facilitate trade settlement. The CE's Central Depository System (CDS) will automatically debit and credit those accounts as matches are made on the trading floor.

The operation of CE would be best run under the jurisdiction of Capital Markets Authority (CMA) given that warehouse receipts/warrants are tradable securities. Its oversight experience on NSE and upcoming futures exchange gives it a comparative advantage over the newly created CE. This also separates ownership from regulation, given NCE is owned by AFFA.

3.7 Direct Coffee Sales

Direct sales, commonly referred as the 'second window' were introduced through Finance Act of 2005. The objective of creating this window was to give the growers a direct link with the international buyers of Kenya Coffee in the hope of getting better prices. Since its introduction, the volume sold through this window oscillates at around 10 percent due to following reasons:

- Most growers are not able to supply the required volume consistently,
- Most growers have limited overseas market intelligence and capacity to handle export logistics,
- Most growers lack capacity to market their coffee and to negotiate and handle a contract,
- The transactions under direct sale are time consuming and do not meet farmers cash flow needs, and
- Poor promotion of Kenya as an origin of premium coffee.

Although the direct sale window offers growers good opportunities to market their premium coffee in the international market, these opportunities are hindered by aforementioned challenges. Annex 4 provides an analysis of the direct sales from 2012 to 2015.

3.7.1 Recommendations

i. The TF recommends that targeted support and focus be placed on promoting coffee sales through the direct sales. As Kenya produces premium quality coffee suitable for the more lucrative specialty market rather than the general commodity market, clear targets should be set to increase sales through this window. In the next three years, the country should aim to sell at least 30 percent of its coffee through this window. For this to be achieved, the following support measures are recommended;

- ✓ Branding and promotion of Kenyan coffee to be developed and implemented. In undertaking the branding and promotion efforts, all available opportunities such as sports, tourism, Kenyan embassies, conferencing, Export Promotion Council, Brand Kenya, among others should be utilized; Youth to be encouraged to use ICT based solutions to support coffee marketing and promotion including identification of new markets, and products; the National Government in collaboration with coffee growing counties to embark on a coffee promotion campaign targeting Europe, USA, Asia, COMESA, African countries and other destinations of Kenya coffee; smallholder farmers to be facilitated to consolidate enough coffee volumes and a producer organization retained and facilitated to offer market intelligence, contract negotiation services and export logistics to coffee Cooperatives; and expedite the enactment of the Geographical Indications Bill to seek to enhance and protect local brands based on origins.

3.8 Market Strategy for Kenya Coffee

3.8.1 Global marketing

Demand

Global coffee consumption growth has been much more modest. In the last decade, annual demand has grown at a rate below 4 percent. We present data from the International Coffee Organization (ICO) below indicating the supply grew at a compounded rate of 2.1 percent to 145.8million bags in 2013 from 127.1million bags from 2009. Growth was higher at 3 percent in origin/exporting countries (led by Brazil) and emerging markets (Asia), while the traditional markets (America, Europe) registered sluggish growth within the same period. However, while overall consumption has been slow, more customers are demanding quality coffee and other coffee-based products such as liquors and smoothies. The leading consuming region is Europe, accounting for 32 percent of global consumption, followed by USA. The share of producing countries consumption has risen dramatically driven by Brazil. The strongest recent consumption growth in the coffee importing countries has been Eastern/Central Europe, the Russian Federation and Asia driven by strong economic growth.

Consumption growth in the traditional markets of North America and Western Europe has been much slower, in part because many of the markets have reached saturation point. In the US, the growth of the specialty market has helped maintain consumption, and is growing in both Europe and Asia. At the top of the quality pyramid are the specialty-grade beans whose demand has doubled in the last 10 years from about five million bags to more than 15million bags in 2013. The growing demand for specialty coffee is favourable for Kenya, given the natural advantage and workmanship that produces high quality coffee.

The rise of 'specialty coffees'

The broad definition of specialty coffee is high quality Arabica coffee that scores over 80/100 points on the Specialty Coffee Association of America (SCAA) quality scale. Like wine, these coffees are further differentiated by taste profiles that are unique to the geographical conditions of origin (soils, altitude) and workmanship. A survey of websites of specialty coffee roasters indicate the retail prices of roast and ground specialty coffee are generally higher than commercial blends, with roasted beans selling upwards of US$5-10/lb above the mainstream coffees, while green beans trade about US$.50-$.80/lb above the 'C' average. The estimated market size for green beans lies between 10 percent and 17 percent according to several sources, representing 14million bags to 24million bags. With the growth of specialty coffee in the US, the number of smaller roasters has increased dramatically, though there is a growing consolidation in this segment. The growth of the specialty coffee segment was driven by Starbucks in the 1990s, and replicated by other coffee houses or start-ups. Starbucks is the largest coffeehouse company in the world, with 23,187 stores in 64 countries; including 12,973 in the United States; 1,897 in China; 1,550 in Canada; 1,088 in Japan; and 927 in the United Kingdom. There are about 10,000 small-medium specialty roasters that mostly supply outlets within a certain region (say East or West Coast of the USA) or have own outlets. The trends in specialty coffee growth have been replicated in Europe and Asia. Specialty coffee demand is directly proportional to the rise in incomes.

The most lucrative segment in the specialty coffee category is presented as single origin coffee/brand. Common brands include the Jamaica Blue Mountain, Hawaii's Kona, Guatemala's Antigua, Ethiopia's Yirgachaffe and Sidano. With limited supply of regional origins, coffee labeled as 100 percent origin to a specific country is also classified as specialty coffee. However, this coffee is priced lower than the distinctive origins mentioned above. While more than half of Kenya's coffee should be sold as single origins, there is no traceability system and branding to support this niche.

Why Kenya is misplaced

While Kenya has the natural advantage of winning in the specialty coffee segment, given the premium prices it attracts, the country has not invested in positioning itself in this segment. Key bottlenecks to servicing the specialty segment include;

- Industry focus: The country prefers to blend other coffee, not to sell her brand;
- The industry structure: Specialty (origin) brands are farmers' brands. In Kenya, farmers are not allowed to market their coffee, and therefore do not know the opportunities in the market;
- Information asymmetry: Kenya is an opaque and frustrating place to buy coffee from. There is no information available on supply or how to buy, as well as ways to authenticate the sources;
- Catalogue/names: Kenya sells her coffee by bean-sizes description such as AA, AB etc, not flavours. These descriptions accord no meaning or loyalty to customers, since AA is a bean size that can be grown by any farmer in Kenya, provided the farmer feeds the plants appropriately. The question roasters ask is: what's the difference between one lot of AA and another?

Recommendations

i. The TF recommends that Kenya develops and executes a strategy to sell most of her coffee to specialty roasters. This will be done in three stages.

Immediate

a) Change the catalogue

In line with the Government's decision to transform NCE to a commodity exchange, the taskforce recommends amendment to the catalogue fields to include origin, quality and flavours as follows:

Table 3.1: A sample of a catalogue design

Flavour	County	Seller (Wet mill)		Offer								
		Name	*Reg. no*	*Tracking ID*		*Grade*		*Quality scores*		*Volume*		*Price (Kg)*
				Lot no.	Out turn no.	Screen size	Name	KEN	SCAA	Bags	Weight (Kgs)	
	Nyeri	Jungle Estate	AG.008	1311	23100128		UG			26	1560	
		Jungle Estate	AG.008	1308	23100127		UG			29	1740	
		Jungle Estate	AG.008	1306	23100129		UG3			26	3040	
		Jungle Estate	AG.008	1310	23100126		UG			50	3277	
	Murang'a	lyego	XAB13F01	1253	19123043	16/17	AB			28	1739	
		lyego	XAB13F01	1254	19123040		AB			13	814	
		lyego	XAB13F01	1267	19123043		PB			5	309	
		lyego	XAB13F01	1300	19123043	18	AA			36	2177	
		lyego	XAB13F01	1301	19123040		AA			17	1074	
	Kericho	Kapluben	XCE0057F 01	313	2351002		AB			20	1211	
		Kapluben	XCE0057F 01	362	2352011		MH			70	4229	

Note: Items shaded yellow are new so as to create pricing transparency and origin brand *b) Create and market origin brands*

Kenya coffee has a sharp pointed acidity, heavy winey characteristic, chocolatey, caramel flavours, a black currant aftertaste and a soft and smooth finish. It is because of these unique characteristics that Kenya coffee stands out in the world market. ***The TF recommends establishment of a global cuppers network to establish the flavour profiles of Kenya coffee to create origin brands.*** Origin brands generate loyalty, which in turn offers premiums as demand rises vs limited supply. This will replace Kenya coffee being described by bean-size and grade. The process of creating origins entails:

- ✓ *Mapping the target area:* This is based on agro-ecological conditions such as climate, type of soil, soil geology, altitude, sunlight, production practices and post-harvest processing which generates the unique coffee flavours found in the area. In Kenya, coffee is grown along three agro-ecological zones (upper medium 1, 11, and 111), though there is micro-climate within the broader zones. Promotional information includes a map of the designated area and list of farms.
- ✓ *Establish the dominant flavours of the coffee:* This is undertaken by setting up a panel of qualified cuppers to establish the flavour profiles of the coffee from the target area using the Specialty Coffee Association of America (SCAA) flavour wheel. The localities that produce similar flavours are grouped together to create an origin cluster/appellation.
- ✓ *Naming*: There is a preference for using the locality's name (such as an administrative area, for example Gatundu, Kiambu, Kirinyaga) and/or a famous geographical feature such as a mountain, valley, river etc, plus the farm's name.
- ✓ *Establish and enforce standards/certification:* Given that one farmer cannot get exclusive use of a locality (Gatundu) or geographical feature (Mt Kenya) name, farmers get together to create an organization that acts as the guardian of the reputation. The organization can be industry-led such as Kona Coffee Council of Hawaii. The organization then creates and registers a mark for which it grants 'user rights' to members who comply with the set standards. The standards or code of conduct cover both production and business (marketing/selling) practices.
- ✓ *Generate reputation:* The owners of the mark then collaborate to promote the brand among coffee consumers, roasters and traders, with a guarantee for traceability of the coffee bearing the mark. The organization provides (own or outsourced) shared facilities

such as milling, warehousing, trading/marketing to monitor compliance with the code of conduct and assure customers of the authenticity of the coffee.

c. Establish a world class promotion/exhibitions strategy

The TF recommends a joint industry initiative to create and execute a first class global marketing strategy, by involving stakeholders' growers (brands) and leading roasters/retailers, and brand ambassadors such as Award winning athletes, in liaison with Kenya Tourism Board, Export Promotion Council, Athletics Kenya, and National Olympic Committee. The goal is to match taste/palates to place, to profile consumers/flavours preferences (referred to as palates in industry lingua) of the consumer in key markets and match them with origin brands (growers) to generate forward contracts.

d. Enact the Geographic Indication (GI) law

This is so as to provide a framework for registration and global protection of the coffee origin brands. Kenya coffee bearing a GI mark will be uniquely identifiable added value for which customers (consumers) will be ready to pay a premium price for origin-guaranteed product. Also, registration of GIs has been shown to increase production output and value of land. The certainty afforded by legal protection would create opportunities for investment in coffee and in these regions.

3.8.2 Promoting local coffee roasting and consumption

Promising growth in local market

While the bulk of coffee (95-97%) is exported, 3 percent is consumed locally. The barriers to growth of domestic coffee consumption are the predominant tea drinking culture, limited knowledge on appropriate coffee roasting and brewing methods, a stifling legal regime that bars farmers from roasting their coffee, lack of direct access to the farmer by the dealer, and expensive coffee shop and roasting equipment. However, the TF noted that local consumption has been growing, fueled by trendy and high quality coffee houses such as Java, Art Caffe, Dormans, Mug etc, a growing population of the middle class and expatriate community and malls.

Conversations with industry players estimate the annual sales of the coffee houses (which are selling Kenya coffee) at KSh.10 billion, creating over 5,000 jobs for young people. This segment pays an estimated KSh. 1.6 billion in VAT and KSh. 200 million in catering levy. Over the next 10 years, we expect this segment of the hospitality industry to grow at the rate of 20 percent annually, creating over 1,000 new jobs per year.

Recommendations

i. The TF recommends a growth plan for local consumption

1 million cup daily by 2020

The TF proposes that by raising coffee consumption to 1 million cups daily by 2020, costing an average cost of KSh. 80/per cup, led by the industry and corporate sponsors. Achieving this milestone will have the following impact:

- Create demand for approximately 4,500 tonnes of coffee per year (based on 100 cups per kilo of coffee);
- Sales of KSh. 29.2 billion annually;
- 51,000 jobs;
- VAT of KSh. 4.67 billion;
- Catering levy of KSh. 584 million; and
- Social impact–lower alcoholism among young people by offering them an alternative place to socialize.

Investments/activities

Communication programme – Youth as change ambassadors

Coffee can compete on the same platform as soda, juice and water which the market segment prefers. To attract young people, farming needs to be positioned as an input into owning a piece of the consumer pie as retail entrepreneurs. We propose a communication programme showing the youth as the champions of transformation of the coffee industry to catalyze succession.

Establish coffee business school with Utalii college

The TF proposes that half of the catering levy paid by coffee houses, estimated as KSh. 200 million a year be "ring-fenced" to support the design, development and running costs of a world class coffee training institute at Utalii College. The school will provide world-class training in the form of three months courses for Baristas, Roasters, and Managers which will be followed by attachment at leading coffee houses in the country. The TF recommends that industry stakeholders sit on the Board of this Institute to ensure it is producing graduates ready for the industry. It is believed that this institute could produce 250-500 graduates annually, depending on budget allocations from the Catering Levy. The recommendation is KSh. 100 million annually with annual budget increment each year in line with the expansion of the sector.

Legal reform

Allow farmers to roast their coffee, and roasters to buy coffee at NCE through the local sales window to be established purposely to target local roasters.

Tax incentives for coffee houses equipment

'*The quality of coffee is as good as the equipment used.*' We propose exception of commercial coffee equipment from excise duty to enjoy the same remissions such as bakery or agricultural equipment. This will attract youth to open coffee houses with low capital input and enable the youth afford high quality equipment. This concession will be compensated with the consumer taxes earned.

Hold promotion shows at Counties (coffee carnivals)

This can be done by holding mobile coffee shops/carnivals in the county level. The road shows will be run in key towns by leading coffee houses with the objectives of introducing good quality coffee to the residents, while promoting local coffee and training staff from local hotels and restaurants on brewing great coffee. Further, the industry will hold coffee promotions at agricultural shows or investment forums.

CHAPTER FOUR: COFFEE PRICES AND PAYMENTS

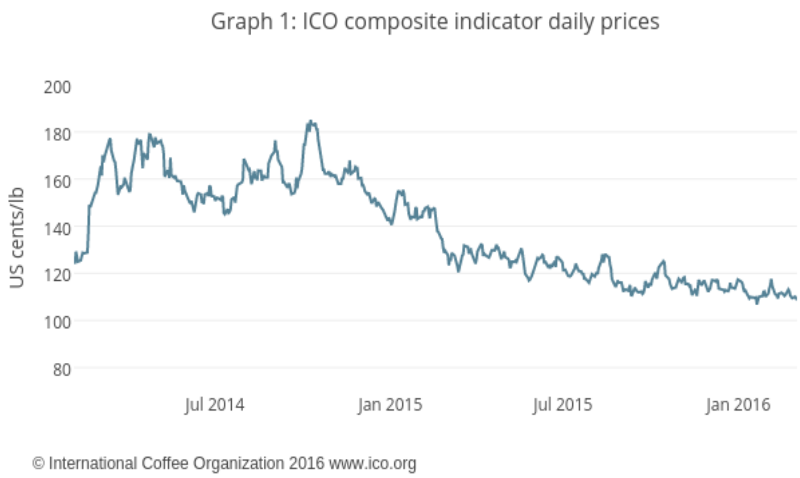
4.1 Introduction

Whereas the previous chapter tracks the coffee value chain from the farm to the market, this chapter reviews the movement of coffee proceeds from the market to the farm. The review encompasses the price analyses based on international prices, NCE prices, deductions and levies along the value chain to establish the farmers' pay out. In addition, the chapter reviews the level of indebtedness in the coffee sub-sector in relation to farmers' pay out.

4.2 Analysis of International Coffee Prices

According to International Coffee Organization (ICO), the global coffee prices were on a downward trend for most of 2015, and the trend has continued in 2016. The downward trend is attributed to decrease in Robusta prices and a slight 1.4 percent recovery in production in 2015. However, it is notable that coffee prices have recently followed a similar and downward trajectory to other global commodity prices. Much of this broader downward trend over the last year has been driven by concerns over slowing economic growth in China, and increasing US interest rate. It is important, therefore, to bear in mind that the fundamentals in supply and demand are not the only factors affecting the coffee market.

Figure 4.1: Trends in global coffee prices (US cents/pound) from January 2014 to February 2016



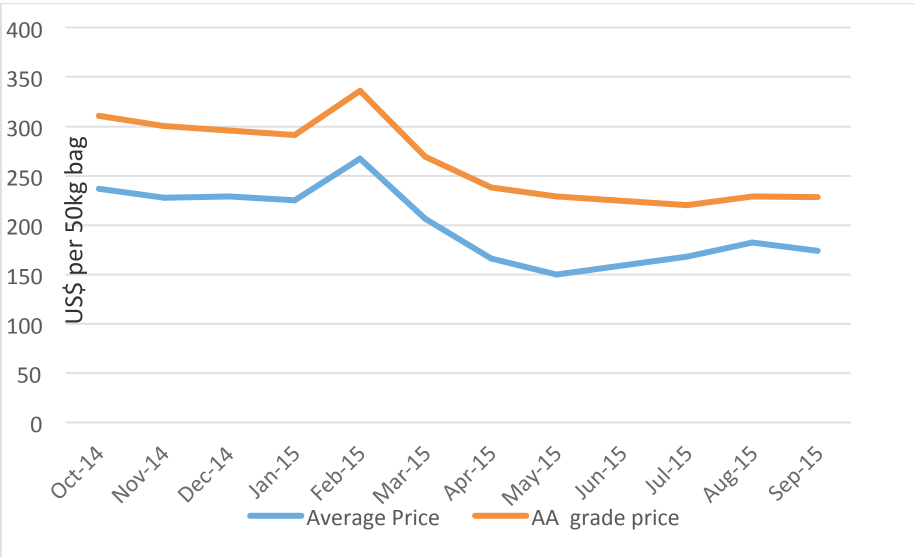
Although Arabica prices increased slightly by less than 1 percent for most of 2015, there are all indications that there will be a slight decline in 2016.

This implies that the Kenyan coffee prices are also expected to decline in line with global trends. However, the *Arabicas,* will continue to enjoy a considerable price differential (premium) compared to the *Robustas*. This premium is attributed to differences in quality. These premiums indicate that the world market still recognizes and rewards high quality coffee. For Kenyan farmers, this means quality coffee production and the various deduction and levies made along the value chain.

4.3 Analysis of Kenya Coffee Prices

Over 90 percent Kenyan coffee is traded at NCE, and during the just ended 2014/15 coffee season, a total of 568,766 bags of coffee worth US$142.5 million (KSh. 14.9 billion). The bulk of these sales (79.3%) were the main coffee grades which fetched US$125.3 million (KSh. 13.1 billion). The prices generally have been on a downward trend since February 2015, when the average price hit a high of US$ 267 per 50 kg bag (Figure 4.2).

Figure 4.2: Coffee prices at NCE for the 2014-2015 year



A summary of the prices for all the coffee grades traded in the 2014/15 year at the NCE are shown in Annex 5. The year closed with an overall average price per bag of US$ 210.7 (KSh. 22,122 per 50 kg bag equivalent to KSh. 442 per kg of green coffee). The green coffee sold at the NCE is mainly used to blend with other coffee. Thus, Kenyan coffee, in many ways, lacks distinguishing marks and is sold as a raw material with no value addition.

There is no authoritative and independent analysis of pricing determination in the NCE, however the prices at the auction are determined mainly by grade and cup profile. Nonetheless, the regulated flow of coffee into auction throughout the year is also an important factor that ensures that there is no excess supply. Increasing direct coffee sales enhances competition and reduces supply to the auction, which will lead to high prices.

Coffee is paid for in US$ to marketing agents who keep the cash for seven days or more, and a majority of them pay farmers in KSh. and not on time. Therefore, most farmers do not benefit from any potential currency gains.

4.4 Smallholder Farmers' Payment

Based on the prices of the main grades which form the bulk of the sales volume at the NCE, it is clear that the average price per kg of green coffee was KSh. 477 equivalent to KSh. 68 per kg of cherry in 2015. This price could have been as high as KSh. 85 per kg of cherry for farmers producing AA and other high value grades. However, majority of Kenyan smallholder farmer, in most parts of the country, received between KSh. 30-40 per kg of cherry during 2014/15. This was less than 40 percent of the prices received at the NCE.

The big question remains: what happened to the rest of the money? To answer this, one needs to look at the coffee marketing chain and the deductions made at various levels. Our estimates indicate that the several deductions are made along the coffee value chain as shown in Table 4.1.

Table4.1: Coffee sub-sector deductions

Statutory deductions		
Coffee Board of Kenya/Coffee Directorate levy	1% of GP*	1%
Coffee research Levy	2% of GP	2
Road Board Levy		
NCE sales commission	0.1 of GP	KSh. 10 per bag
Road board levy	0.8% of GP	0.8
Council/County levy	0.2% of GP	0.2

Milling charges-basic	US$ 45/tonne of parchment	1.5
Other milling charges (sorting/grading)	US$ 48/tonne of parchment	1.6
Marketing commission	Negotiable	2.2
Export bags+ VAT	US$3.5/bag	3.3
Transport	US$24/tonne	0.6
Sub-total		**13.2**
Co-operative overheads and charges		12- 40
Total		**53.2**
Farmer pay-out		**46.8 – 75**

*GP refers to Gross Proceeds

The coffee sub-sector statutory deductions that fund research and regulation under the new law are discriminatory. The research and regulation functions of the sub-sector fall in the jurisdiction of AFFA and KALRO, both of which cover other commodities. Inferably, granted that other commodities are not subjected to comparable statutory deduction, it is clear that the coffee farmer is overburdened. Moreover, farmers also pay a road cess to the county governments and roads board at a rate of 1 percent to fund maintenance of rural roads. However, in most coffee growing areas, these roads are in very poor condition. Therefore, farmers incur high transport costs to move inputs to their farms and coffee cherry to the nearest factory.

An examination of margins along the coffee marketing chain reveals that the margins at the cooperative stage remain inordinately high, ranging from 15 to 40 percent at the national level. A majority of Cooperatives are charging way beyond the government's policy guideline of 20 percent of farmers' payment. In addition, the growers bear the cost of gunny bags for KSh. 600, which are used for packing and transporting coffee to both the mill and exchange, respectively.

Moreover, anecdotal evidence reveals that there is rampant coffee theft from coffee factories, which has heightened insecurities in coffee growing areas. To mitigate such insecurities, the Cooperatives continue to incur high costs to safeguard the coffee factories by hiring private security.

There is also a requisite premium to insure the coffee while it is transported to the miller, and most societies are forced to hire policemen. These costs are ultimately passed to farmers, reducing their final pay-out significantly.

These Cooperatives high costs are attributable to low capacity utilization, inefficiencies, poor governance, financial mismanagement, abuse of borrowing powers, and rent seeking. The high charges combined with high performance risks in Cooperatives can explain why smallholder farmers are shunning this formal marketing channel in favour of the informal one. This situation is unlikely to change, unless deliberate steps are taken to streamline the operations and governance of Cooperatives.

The liberalization of milling had envisaged enhanced price competition. However, competition has resulted into some anticompetitive tactics including bribery as the millers compete for the limited supply of coffee. As a result, the milling charges remain high due to hidden costs of drying and sorting, which have led to farmers' discontent. Understandably, this kind of pricing pattern is expected to cover the cost of capacity underutilization and inefficiencies in the milling factories. Furthermore, some millers have sponsored division in management of Cooperatives in an effort to secure favours and business.

There are some societies that have overcome these challenges by investing in their own mills with remarkable results. For instance, some Cooperatives that have invested in their own mills like Othaya and Meru paid members KSh. 71 per kg of cherry on average in 2014/15, compared to KSh. 30-40 paid by majority of their counterparts who had engaged commercial millers. This was possible due to lowering of milling and transport costs and also significant reduction in milling loses. Furthermore, societies with their own mill have also witnessed increases in the proportion of coffee graded as top grade such as AA and AB.

Apart from the low payments received, many growers have to wait for almost 6 to 8months to receive payments. This delay is mainly attributed to the time for coffee to be processed, milled, and offered for sale at NCE, and the delays in processing of payments. Although these payments to growers are required by law to be made within 14 days, this is hardly the case. NCE has a system that penalizes dealers who do not make payments to marketing agents within seven days after coffee is sold. However, there is no system to ensure that marketing agents pay growers on time.

Farmers' Cooperative societies (as growers) receive payments from marketing agents, subtract their costs and pass on the balance to individual small scale farmers. Quite often, there are complaints of further delays at the cooperative level. Some of these delays are attributed to managerial inefficiencies, including coffee factory management limited capacity to process payments. Delays in payments can cause severe cash-flow problems to farmers, thereby forcing them to borrow or to default on critical family obligations.

4.4.1 Recommendations

Based on the foregoing analyses, the following recommendations are made to improve both the rate and timeliness of coffee payments;

i. It is recommended that the statutory levies of 4 percent of coffee sales proceeds that are deducted to finance CRI and AFFA (Coffee Directorate) and the Roads levy be abolished, and the funding taken over by the Exchequer. During the public hearings and other consultations, it emerged those coffee sub-sector statutory deductions that fund research and regulation under the new law are discriminatory. The research and regulation functions of the subsector fall in the jurisdiction of AFFA and KALRO, both of which cover other commodities. Inferably, granted that other commodities are not subjected to comparable statutory deduction, it is clear that the coffee farmer is overburdened. Moreover, farmers also pay a road cess to the county governments and roads board at the rate of 1 percent to fund maintenance of rural roads. This levy amounts to double taxation of farmers, who also pay the fuel levy paid by other Kenyans. Furthermore, in most coffee growing areas, these roads are in very poor condition. Therefore, farmers incur high transport costs to move inputs to their farms and coffee cherry to the nearest factory.

ii. The TF recommends that the Cooperative society commission should not exceed 15 percent of the net earnings from coffee sales. This limit should be strictly enforced.

iii. The TF recommends that the growers and the millers negotiate and agree on the cost of export bags and the agreed cost be included as part of the milling agreement.

iv. The TF recommends that the funding of the NCE be reviewed and the agreed commission(s)be provided for in the trading rules.

v. Establish a revolving fund to be used to finance a cash on delivery cherry advance to smallholder farmers at the rate of 40 percent of average coffee prices prevailing at the NCE, or at least KSh. 15 per kg of cherry. The recommended fund is aimed at addressing the 6 to 8 months delays in payments, which constrain smallholder farmers' cash flow and their ability to finance farm operations and their livelihoods. Under the scheme, the farmer will receive a direct part payment for one month after delivering the coffee cherry to the factory.

Based on public consultations conducted by the TF, this problem was identified by stakeholders across board as one of the key challenges facing the coffee industry. The delayed payments, coupled with low pay out to farmers, was said to be one of the key contributors to low production, low morale of farmers, lack of participation of youth, and general apathy among smallholder farmers across the country.

This intervention will address the acute cash flow problem faced by farmers and give them a clear signal that they should put more effort to enhance production. The cash cherry advance will also serve as a minimum guarantee price that will reduce the need for farmers to be involved in the illegal cherry trade. Furthermore, given the time needed to initiate and settle deals based on direct coffee sales, the cherry advance will enable farmers to enhance their participation in these sales, which are more lucrative and suitable for almost 40 percent of the high quality Kenyan coffee. The cherry advance will also be in tandem with the practice in the tea industry where farmers are paid a monthly advance, while they await the final payments which are made after all sales are done and final accounts prepared.

The cherry payment advance will be based on the 40 percent of the average coffee prices at the NCE for the preceding crop year. To avoid overpayments, the NCE average price should be adjusted by a trend factor based on the New York Coffee Exchange (NYCE) futures trading prices for March, July, September and December deliveries, as this represents the delivery months when most Kenyan coffee is traded in the NCE. This means that the advance will be adjusted every year depending on the last season's average price at NCE and the future positions at NYCE. The 40 percent is not only in line with tea monthly payments, but it is also based on the consideration of the need to retain a significant proportion of the final pay out to cover for any debts that farmers may owe due to inputs and services rendered by their Cooperatives. Furthermore, given this is a pan-territorial (national) rate, there is need to cater for differences in prices across the coffee producing areas and to avoid any overpayments. The cherry payment will be in two parts; the first around 90 percent to be paid directly into a farmers account, and the second of 10 percent to be paid to the society/factory to cover the cost of processing the cherry.

During the 2014/15 coffee season, a total of 568,766 bags of coffee worth US$142.5 million (KSh. 14.9 billion) were sold at the NCE. The average price was US$205 (KSh. 20,500) per 50 kg bag of clean coffee; an equivalent of KSh. 58 per kg of cherry. During the same year, smallholder farmers produced around 34,000 MT of clean coffee equivalent to 238 million Kgs of cherry. Based on these figures, the estimated cherry advance payment fund requirements for the current crop year (2015/16) are estimated at KSh. 3.3 billion. The cherry payment of about KSh. 20is considered adequate to partly cater for the production costs estimated at KSh. 24 for farmers producing 2 Kgs of cherry per tree. The funds will be topped up as production improves. The advance system can have inbuilt incentive mechanism by paying a bonus per kg of cherry for Cooperatives that increase coffee production over agreed thresholds.

To guarantee success, the cherry advance should be predicated on the following conditions:

i. The payments to be made directly to farmers account one month after delivery. The societies will be required to submit the records on deliveries and account number per farmer to facilitate the payments from the proposed central depository unit (CDU).

ii. A clearing bank(s) to be appointed/procured to administer the proposed CDU.

iii. Build up the fund and cater for operational overheads. It is recommended that the cherry advance should attract a surcharge/interest of 5 percent per year of which 4 percent is ploughed back to the fund and the rest (1%) is used to cover overheads.

iv. All societies participating in the programme to open and maintain an account with the appointed bank(s)/CDU where proceeds for coffee sales are to be deposited to enable the bank/CDU to recover the cherry advance payments at source.

The combined effect of the coffee subsidy together with the expected impact of the cherry advance is estimated to increase coffee production by at least 3 times to at least 90,000 MT in the 4th year, resulting into an additional US$ 300 million per year (at the current average coffee prices). The extra earning will be even more after taking into account the extra production from small estates. For smallholders, this is estimated to lead to an extra annual income of KSh. 120,000 per acre (an extra 2,000 Kgs. of cherry per acre at an average price of KSh. 60 per kg of cherry).

4.5 Debt Analysis of the Sub-sector

After the collapse of the International Coffee Agreement (ICA) in 1989 and the subsequent plunge in coffee prices, the coffee farmers were unable to service the various loan facilities they had taken from various financial institutions, cooperative societies and unions. The cooperative societies, and small and medium estate farmers were the most affected. According to information available from the Department of Cooperatives, by 2011 the coffee farmers owed their cooperative societies, SACCOs and unions a total of KSh. 4.78 billion and since then, the Government, through a series of debt waivers, has managed to clear KSh. 3.5 billion. The remaining balance of KSh. 1.28 billion was to be cleared in the current financial year, but only KSh. 500 million has been made available leaving an outstanding balance of KSh. 784 million to be considered in the 2016/17 financial year.

Apart from the debts owed to cooperative societies, SACCOs and unions, the coffee farmers also owe KSh. 1.7 billion under the Cooperative Bank STABEX revolving fund. The Government, through the National Treasury, has given a written commitment to clear this debt. Once cleared, the total amount will be available to the coffee farmers as this is a revolving fund.

Other farmer institutions such as KPCU are owed KSh. 4.26 billion by coffee co-operatives and estate farmers. The commodities Fund (CF) has also extended loan facilities to coffee farmers to the tune of KSh. 2.2 billion. Although the CF has a loan collection rate of about 78 percent disbursed loans, about 7 percent of the loan portfolio is at risk, mainly due to governance and liquidity problems of some of the intermediaries used to disburse the loans. There is also a great need for the CF to expand its operations and outreach, especially at the counties coffee growing level. The CF also needs to have an independent Board of trustees to guide its policies and enhance its overall management.

Despite the debt waiver by the Government, cooperative societies and unions are said to have continued to borrow from financial institutions, coffee millers and marketing agents at high interest rates. The Task Force was not able to ascertain the total amount involved, but this was alleged to be one of the factors contributing to low coffee payments to farmers. Furthermore, the Task Force established that some of the cooperative management were abusing the borrowing powers and ceilings approved by farmers. The oversight and regulation on this critical matter from the Department of Cooperatives at the national and county level was judged to be weak and, in some cases, the officers were compromised. Indeed, it was the view of the TF that the financial management of most coffee cooperatives was weak, allowed unethical behaviour, and sometimes, outright corruption to be perpetuated by some society management with involvement of some cooperative department officials.

4.5.1 Recommendations

Arising from the foregoing, the following interventions are recommended:

i. The government to honor its commitment and clear the outstanding debts to Cooperatives, SACCOs and unions amounting to KSh. 784 million. In addition, the government should clear the outstanding debt of KSh. 1.7 billion under the Stabex revolving fund facility. These debts should be factored and cleared in the 2016/17 financial year. However, the TF has noted that the STABEX has accrued interest of KSh. 700 million as at March 2016 that needs to be addressed by GOK and Cooperative Bank in order to free farmers' securities.

ii. After debt payment, the funds available under the Stabex revolving fund should be channeled as credit facility to finance the development of the coffee subsector.

iii. For transparency and accountability, information on the names of debt waiver beneficiaries (societies, unions and SACCOs) and the amounts involved should be made public to avoid situations where farmers continue to service non-existing debts.

iv. To undertake audit of the CF's indebtedness and consider subsequent debt waiver in the short term. In the meantime, the CF should cease to issue demand notices and foreclosing, especially those loans issued through intermediaries.

v. A forensic audit for all debts owed from coffee cooperatives to be undertaken over the next three months to ascertain the level and nature of debts owed. The audit will recommend measures to be taken to streamline and improve the financial management and put into place administrative and other measures to limit and control the level of borrowings by the societies.

vi. To address the indebtedness and management of assets acquired by various farmer organizations through farmers' contributions, the government to undertake an audit to ascertain the value of the assets and the best way forward.

vi. To strengthen and enhance the capacity of CF, the government to recapitalize and appoint an independent Board of Management for the fund.

CHAPTER FIVE: POLICY, LEGAL AND INSTITUTIONAL FRAMEWORK

5.1 Introduction

This chapter reviews the policies, legal and institutional frameworks that govern the subsector, identifies gaps and options for interventions.

5.2 Policy

Although the Agricultural Sector Development Strategy (ASDS) exists to guide the overall development of the agriculture sector, there are no specific guidelines for the coffee subsector. The last attempt to formulate policy on the subsector was based on the Sessional Paper No. 2 of 2001. The paper focused on liberalizing and restructuring the coffee industry. Most of the critical issues identified in this paper remain unresolved and do not have significant effect on the subsector.

Given the prevailing situation in the subsector, there is a need to develop turnaround policies and strategies. Based on the findings of this TF, these policies and strategies should focus on:

- Addressing the low productivity, especially for smallholder farmers,
- Enhancing the efficiency of coffee processing,
- Promoting market accessibility,
- Better positioning of Kenyan coffee in international market,
- Improving the rate and timeliness of coffee payments,
- Encouraging youth participation in the subsector,
- Strengthening governance across of the value chain, and
- Developing a subsidy policy for agriculture sector and coffee sub-sector

5.2.1 Policy options

To address the issue of low productivity, a number of policy options are available geared to improving the availability of farm inputs, access to credit, extension services and addressing demographic challenges. It is the view of the TF that high priority in this area should focus on availability of fertilizer to farmers. Currently, the government is administering fertilizer subsidy programme, which mainly focuses on improving food security. Although the coffee subsector is supposed to a beneficiary of this programme, in practice this does not happen due to logistical and distributional challenges. Furthermore, the fertilizers availed in this programme are mainly suitable for cereals and not coffee.

Admittedly, the extension services are critical prerequisites towards enhancing productivity. However, the availability of these services has been dwindling in the recent past and has worsened with devolution. Therefore, there is a need to address the constraints limiting the availability of these services. Most coffee trees are old and may require replacement with the new varieties, which are more cost effective.

The vast majority of pulping stations are using outdated technology, and other supporting infrastructure are in deplorable conditions. Some of them have no access to electricity. Given their centrality in processing and maintenance of coffee quality, there is need to support the rehabilitation programme.

The market accessibility is constrained by the long value chain, and uncompetitive behaviour from possible collusion between the various players. There is a need to modernize the NCE and build into a Commodity Exchange to enhance transparency and participation, and improve price discovery. Ultimately, the objective is to effectively bring the farmer to the market by the reducing the intermediaries and also increasing the volume of coffee traded through direct sales. There is a need to position Kenyan Coffee internationally and promote the Kenyan brand. At the same time, Kenya ought to promote domestic coffee consumption.

Despite being the principal owner of coffee, the farmer is the last to be paid and bears the most, yet payments are usually late. The farmers are also subjected to statutory levies and other deductions that significantly lower coffee earnings. There is need for policy intervention to improve the rate and timeliness of payments.

In line with government youth policy and the need to address the limited youth participation in the subsector, interventions are required to promote training and funding. The subsector should also address cross cutting issues related to gender, environment, climate change, carbon trading and coffee theft.

5.2 Institutions

Given the centrality of cooperatives in processing and marketing of coffee, the TF identified the need to strengthen their capacity, governance and their regulation. The key coffee institutions such as Coffee Directorate, NCE, CRI and CF are run with limited funding that has compromised their capacities to execute their mandates. In addition, majority of these institutions are governed by outdated legal framework, which has not taken into account devolution. Therefore, there is no policy coherence in the subsector. For instance, the NCE legal status is uncertain. The TF observed that the subsector is suffering from weak enforcement that cuts across various institutions due to inadequate capacity, integrity issues, and lack of synergies. The farmers in the county also lack a representative farmer's body that can articulate growers' issues and offer the much needed oversight. This is unlike other countries such as Colombia where farmers have a powerful national federation -the Colombian Coffee Growers' Federation (*La Federación Nacional de Cafeteros de Colombia*) which serves the welfare of the country and promotes the economic and social well-being of Colombian coffee growers.

Recommendation

The TF recommends that the government supports the various coffee growers'organizations, cooperatives and unions to federate at the national level to form a Kenya Coffee Growers Federation that shall have direct presentation of farmers from the county level.

5.3 Constitutional and Legal Framework

The Constitution gives national government power to develop Kenya's agricultural policy, and provides functions and powers of the county government in agricultural matters which include; crop and animal husbandry, livestock sales yards, county abattoirs, plant and animal disease control and fisheries. Therefore, the national government in conjunction with counties has a constitutional obligation to develop coffee subsector laws and policies that ensure farmers equitably benefit from their produce.

Presently, the subsector is governed by Coffee (General) Rules 2002 that were gazetted under the Coffee Act of 2001, which were repealed by Crops Act of 2013. From the findings of TF, there are concerns that these rules deny the farmers their proprietary rights, which are provided for in the Constitution. Furthermore, these rules are not in tandem with Crops Act of 2013 and challenges and opportunities facing the subsector. There is need for a quick review of the existing laws governing the subsector. Additionally, there are other cross-cutting legal issues contained in Annex 6 that the TF considered relevant and therefore recommends the following;

i. Enactment of new coffee subsector regulations (Annex 7) in order to ensure that farmers enjoy their property rights as enshrined in Constitution 2010. This is critical as both Crops and AFFA Act 2013 do not have specific clauses to administer the coffee subsector and the legality of Coffee (General) Rules 2002 is questionable. Further, new regulations will ensure that the TF's recommendations of removing some licenses that bar farmers from effectively participating in various levels of the coffee value chain are addressed.

ii. Amendment of the Crops Act 2013. This will remove various restrictions on manufacturing and processing imposed on scheduled crops like coffee.

iii. Amendment of the Cooperative Act of 2012 in order to provide effective management of Cooperatives. This will encompass raising the bar for those seeking leadership positions in Cooperative societies, vetting of the officials by EACC and wealth declaration, separation of growers and cooperatives administrative charges, among others. It will also spell out the clear role of counties.

iv. Fast-tracking the enactment of Warehouse Receipt Systems Bill 2015. This will promote development and regulation of a warehouse receipt system for coffee and other agricultural commodities and will be most critical once NCE is transformed into a modern commodities exchange.

v. Incorporation of NCE into a public limited company by guarantee. This will enhance the legal capacity of NCE and pave way for its eventual upgrade into a commodities exchange. However, its upgrade into a commodities exchange will entail amendments of Capital Markets Act and current rules that govern its operations.

vi. Enactment of Geographical Indications Law. This law will help certify Kenyan products and market them exclusively in a specialty market, and help distinguish Kenyan goods from those of other countries.

CHAPTER SIX: SUMMARY OF RECOMMENDATIONS

Based on the Terms of Reference of the TF and findings of this study, the TF recommends the following at various stages of the coffee value chain;

A. LEGAL ISSUES

i. Enactment of new coffee subsector regulations in order to ensure farmers enjoy their property rights as enshrined in the Constitution and some licenses that bar farmers from effectively participating in various levels of the coffee value chain are abolished.

ii. Amendment of the Crops Act of 2013 and AFFA Act of 2013.

iii. Amendment of the Cooperative Act in order to enforce effective management of cooperatives.

iv. Fast-tracking of enactment of Warehouse Receipt Systems Bill of 2015.

v. Incorporation of NCE into a public limited company by guarantee.

vi. Enactment of Geographical Indications Law: This law will help certify Kenyan products and market them exclusively in a specialty market and help distinguish Kenyan goods from those of other countries.

B. PRODUCTION STAGE

i. A subsector subsidy programme to smallholder farmers and small coffee estates (less than 20 acres). Such a subsidy will boost coffee production in the immediate term from the current average production of 2Kgs of cherry per tree per year to 8Kgs within 2-3 years. The subsidy is to be provided as a package to cater for:

- ✓ 300grammes per tree of Calcium Ammonium Nitrate (CAN) and 250grammes per tree of compound fertilizers per tree per small holder coffee farmer and the small estates. According to CRI, this fertilizer package can raise production per tree from the current average of 2Kgs of cherry per tree to 5-10 kg per tree per year;
- ✓ Funds to be provided to CRI to expand production of coffee seed and planting material, and Cooperatives to establish and distribute coffee planting mainly for the new varieties, Ruiru 11 and Batian.
- ✓ Funds to be provided to finance basic rehabilitation at least 50 percent (around 500) coffee factories to enable them process coffee; and
- ✓ Funds to be provided to cater for capacity building and training of farmers and coffee societies (use of organic manure).

ii. Capacity building to support farmers in coffee husbandry to increase production, train factory managers on processing, and train society Board of Management. Absence of these services has attracted some millers to provide inconsistent selective support for a fee on need basis. To ensure that all societies benefit from support, a collaborative financial support kitty nested in CRI should be created and any development partner interested in supporting the sector should contribute to this kitty. The provision of extension services should be undertaken together with County governments as these services are devolved.

C. PRIMARY COFFEE PROCESSING PERFORMANCE

i. Reforms to strengthen and restructure Coffee Cooperative Societies. The main objective of this re-engineering is to address the following areas:

- ✓ Cap the administrative costs of Cooperatives to 15 percent;
- ✓ Encourage the societies to diversify income sources and focus their processes on efficiency;
- ✓ Vertical integration of Cooperatives in the coffee value chain;
- ✓ Effective and efficient service delivery to members by enhancing society and financial management;
- ✓ Review of Cooperative laws to ensure punitive measures for non-compliance of the law;
- ✓ Streamline and offer clear guidelines to societies regarding procurement of service providers such as millers to ensure transparency and adhere to the Public Procurement and Asset Disposal Act of 2015;
- ✓ Strengthen and ensure the regulatory role of Department of Cooperatives at National and County levels;
- ✓ Put into place administrative and other measures to limit and control the level of borrowing by the societies;
- ✓ Pending the establishment of CDU, ensure Cooperatives separate the society/factory operation accounts from farmer payment accounts to ring fence farmers' payments and control operational charges; and
- ✓ Improve the governance of societies by ensuring that the societies code of conduct is adhered to, society official adhere to the provisions of Chapter 6 of the Constitution, and explore the possibilities of limiting the term of management committee.

ii. A review of the five acre rule for pulping license. Such legislative action will likely revitalize the utilization of abandoned coffee farms. Moreover, it will attract youth participation by removing land inheritance barriers that have systematically locked youth from coffee farming activities.

D. MILLING PERFORMANCE

i. ***Annual publications of milling tariffs and other charges before end of September every year by the Coffee Directorate.***

ii. ***Cooperative growers movement permit to millers should be restricted within the nearest available mills.***

iii. ***Private miller license to be converted to grower miller license.***

E. MARKETING PERFORMANCE

i. ***Review of laws to allow coffee growers to directly trade their coffee in the NCE.*** This entails combining various licenses (pulping, milling, grower marketer) along the value chain into one grower miller license.

ii. ***A review of laws to ensure that cross ownership does not exist along the marketing chain.*** For instance, a coffee dealer or any other entity associated with a dealer shall not be licensed as commercial miller or a broker. A code of ethics that specifies the different roles shall be developed by the regulator.

iii. ***To promote local coffee consumption, at least 10 percent of the Kenyan coffee shall be targeted for local consumption.***

F. NAIROBI COFFEE EXCHANGE

i. ***NCE be established as a body corporate as a public company limited by guarantee***.

ii. ***NCE be modernized and its capacity enhanced***. The modernization will entail upgrading its ICT infrastructure at the national and regional level, improve its physical infrastructure including sample room and administrative facilities, improve human resource and eventually relocate to more suitable location.

iii. ***Government to establish Central Depository Unit (CDU) for settlement and payment of coffee proceeds.*** The establishment of CDU would be a building block towards transformation of NCE to a Commodity Exchange, and it will also eliminate the need of the US$ 1 million guarantee which is a requirement to sell coffee in the auction. This will also reduce delay in payments and be a platform for digitization of coffee payments. Further, it will facilitate direct payments to farmers, thereby eliminating third parties from handling farmers' payment. The TF noted that already the Tea subsector has an established CDU operated by Commercial Banks.

iv. ***NCE should create a sales window to cater for local roasters with appropriate trading rules and catalogue***. Such a trading window should enable licensed local roasters to access coffee at the auction by reducing the minimum sales volume to a minimum of even one bag bided on US$ terms, with an option of paying in KSh. equivalent.

v. ***NCE should establish an office of Auctioneer/Broker unit that will be tasked with the responsibility*** of preparing a catalogue for coffee to be offered for sale in each auction and to conduct the auction at the appointed date.

vi. ***NCE be upgraded to a fully-fledged Commodities Exchange (CE) under Capital Markets Authority.*** Upgrading NCE is the fulcrum that will fundamentally alter the coffee industry structure to raise the farmer's (and country's) earnings by enabling him/her to sell coffee globally at lower transaction costs.

G. DIRECT SALES

i. ***Targeted support and focus be placed on promoting coffee sales through the direct sales. For this to be achieved, the following support measures are recommended:***

- ✓ Branding and promotion of Kenyan coffee;
- ✓ Youth be encouraged to use ICT based solutions to support coffee marketing and promotion, including identification of new markets, and products;
- ✓ The National Government in collaboration with coffee growing counties embark on a coffee promotion campaign targeting Europe, USA, Asia, COMESA, African countries and other destinations of Kenyan coffee;
- ✓ Smallholder farmers to be facilitated to consolidate enough coffee volumes and a producer organization retained and facilitated to offer market intelligence, contract negotiation services and export logistics to coffee cooperatives; and
- ✓ Expedite the enactment of the Geographical Indications Bill to seek to enhance and protect local brands based on origins.

H. MARKET STRATEGY

i. ***Statutory levies of 4 percent of coffee sales proceeds that are deducted to finance CRI and AFFA (Coffee Directorate) and the Roads levy be abolished***

ii. ***Cooperative society commission not to exceed 15 percent of the net earnings from coffee sales.*** This limit should be strictly enforced.

iii. ***Growers and the millers negotiate and agree on the cost of export bags and the agreed cost to be included as part of milling agreement.***

iv. ***Funding of the NCE to be reviewed and the agreed commission(s) provided for in the trading rules.***

v. ***Establish a revolving fund to be used to finance a cash on delivery cherry advance.***

I. DEBT ANALYSIS OF THE SUB-SECTOR

i. ***The government to honor its commitment and clear the outstanding debts to Cooperatives, SACCOs and unions amounting to KSh. 784 million.***

ii. ***For transparency and accountability, information on the names of debt waiver beneficiaries (societies, unions, SACCOs) and the amounts involved should be made public*** to avoid situations where farmers continue to be forced to service non-existing debts.

iii. ***To undertake audit of the CF's indebtedness and consider subsequent debt waiver in the short term.***

iv. ***A forensic audit for all debts owed from coffee Cooperatives to be undertaken over the next three months to ascertain the level and nature of debts owed.***The audits will recommend measures to be taken to streamline and improve the financial management and put into place administrative and other measures to limit and control the level of borrowing by the societies.

v. ***To address the indebtedness and management of assets acquired by various farmer organizations*** through farmer's contributions, the government to undertake an audit to ascertain the value of the assets and the best way forward.

vi. ***To strengthen and enhance the capacity of CF, the government to recapitalize and appoint an independent Board of Management for the fund.***

J. INVOLVEMENT OF THE YOUTH IN THE COFFEE SUB-SECTOR

i. ***Introduce regular payments against coffee deliveries to break the lengthy systemic delays farmers' experience.*** This will make the youth begin to perceive coffee growing as a remunerative and prestigious profession.

ii. ***Affirmative action to ensure Cooperatives becomes more youth-sensitive, particularly in their representation and governance structures.***

iii. ***Formulate policies to ensure inclusion of the youth in decision and policymaking processes that aim at retaining most of them in rural communities.***

iv. ***Establish policies which ensure youth enjoy a share of family land and easy membership attainment*** without title deed ownership to enable youth participate in coffee production.

v. ***Support value addition initiatives*** such as street coffee vending, coffee kiosks, youth-owned coffee house start-ups, and demystify the roasting of coffee to enable youth participation. Improve traditional coffee roasting methods benchmarked on Ethiopia and the Kisii *'Omosike'* street vended coffee.

vi. ***Youth sections should be created within mixed Cooperatives, and gender inequalities should be addressed*** to ensure the active participation of young people. The creation of youth-only Cooperatives should also be facilitated.

vii. ***The grower associations (e.g. KCPA) should create sections in their articles of associations*** that cater for youth and how they can be incorporated into leadership.

viii. ***Cooperatives should provide mentoring, guidance and advisory services to their young members*** so that they can become leaders and farmer entrepreneurs, and overcome constraints (e.g. through access to training, land and credit).

ix. ***Catering Levy paid to Tourism Fund should be used to train youth on coffee matters*** through various channels such as Utalii College and scholarships.

x. ***Upscale coffee training syllabus in institution of learning*** e.g. Kimathi, JKUAT, etc.

CHAPTER SEVEN: IMPLEMENTATION PLAN

7.1 Introduction

Based on the Terms of Reference, the Task Force reviewed the various recommendations and identified the need to develop an implementation strategy that will be used to guide the implementation process. In developing the Implementation strategy, the TF prioritized the various recommendations made in this report based on the following;

i. The need to have a phased approach with the first phase constituting quick actions that can be implemented within the next six months, second phase to cover the next one year and the rest of the recommendations implemented within the next two years.

ii. The need to address the legislative and institutional reforms that will shorten the long value chain and allow farmers to better participate in marketing their coffee, and improve the rate of payments

iii. The need to have a subsidy programme that can quickly turn around production in the sub-sector and give a clear incentive to farmers

iv. The need to address the low and delayed payments to farmers that have been a major complaint

v. The need to attract youth participation in the coffee value chain

vi. The need to support institutions that deal with the coffee sub-sector

vii. The need to market positioning of Kenyan coffee both globally and locally

viii. The desire to ensure direct access of farmers to Nairobi Coffee Exchange and digitization of coffee value chain

ix. The need to address the issue of Debt audit and Waivers

Based on the above considerations, the TF identified the following seven interventions in the sub-sector which need to be addressed within the next **one year**.

i. Fast track the review of legal and institutional policies that govern the sub-sector and, in particular focus on;

- Enactment of new coffee sub-sector regulations to allow farmers to participate better in coffee value chain, reduce the length and number of the value chain players, modernize NCE and establish a commodity exchange, review various licenses and fee requirements and abolish statutory levies (already done), among other reforms;

- Amendment of the Cooperative Act,2012 in order to provide effective management and governance of cooperatives and cap cooperatives administrative deductions at 15 percent of net proceeds; and
- Review Crops and AFFA Acts, 2013 and fast-track the enactment of Warehouse Receipt Systems Bill, 2015 and Geographical Indications bill, 2007.

ii. Establishment of a subsidy programme to cater for smallholder and small estate coffee farmers. The subsidy will be offered as a package including fertilizer, planting materials for new varieties, capacity building and training of farmers and rehabilitation of at least 500 cooperative pulping stations;

iii. Establishment and implementation of a cherry advance system to pay KSh. 15 per kg of cherry upon delivery by farmers. This will also involve the establishment of a Central Depository Unit (CDU) and digitization of coffee value chain.

iv. Provide for debt waiver to cooperative societies, SACCOs and Unions, the STABEX revolving fund and undertake audits to ascertain the indebtedness of the coffee sub-sector and the farmers' assets held by various institutions such as Kenya Planters Cooperative Union (KPCU) and Coffee Directorate.

v. Brand and promote Kenya coffee internationally and increase the amount of coffee sold through direct sales from 10 percent to around 30 percent in the next three years. At the same time, enhance local coffee consumption from 1 percent to around 10 percent of total production.

vi. Modernization of Nairobi Coffee Exchange to allow farmers to directly trade coffee in the exchange and promote price discovery mechanisms in the trading floor.

vii. Providing institutional support to various agencies that deal with the coffee sub-sector especially the State Department of Cooperatives, Coffee Directorate and Coffee Research Institute.

Most of the interventions are expected to be implemented simultaneously and will require a lot of coordination between the national and county governments, and between various government and industry agencies.

Based on this consideration, the TF recommends that an implementation committee be put into place to spearhead the implementation process in conjunction with the MOALF and various government agencies.

7.2 Excepted Outcomes

At the farm level, the combined effect of the subsidy together with the impact of the cherry payment is estimated to increase coffee production by at least 3 times to 90,000 MT in year 4 resulting into an additional US$ 220 million per year (at the current average coffee prices). The extra earning will be even more after taking into account the extra production from small estates. For smallholders, this is estimated lead to an extra income of KSh. 120, 000 per acre per year (an extra 2,000 kg of cherry per acre at an average price of KSh. 60 per kg of cherry).

The next section provides the detailed implementation framework with timelines, responsibilities and estimated costs.

7.3 Implementation Framework

A. COFFEE SUB-SECTOR LEGAL REFORMS

Legal I	**Budgetary Cost (KSh.)**	**Timeframe**	**Responsibility**		
			National	**County**	**Others**
Enact new coffee subsector regulations in order to ensure that farmers enjoy their property rights as enshrined in Constitution 2010	-	May, 2016	Presidency to facilitate oversight MOALF to implement AG, AFFA, Parliament to facilitate review	31 coffee growing counties to implement	
Amendment of Crops and AFFA Acts, 2013	-	May, 2016	Presidency to facilitate oversight MOALF to implement AG, AFFA, Parliament to facilitate review	31 coffee growing counties to implement	
Amend the Cooperative Act,2004 in order to enforce effective management of cooperatives	-	May, 2016	Presidency to facilitate oversight MOALF to implement AG, AFFA, Parliament to facilitate review		
Review and Fast-tracking enactment of Warehouse Receipt Systems Bill, 2015	-	May, 2016	Parliament to facilitate passage of the bill		
Legalize and Incorporate NCE into a public company limited by guarantee.	-	May, 2016	Presidency to facilitate oversight		

			MOALF to implement AG, AFFA, Parliament- to facilitate review		
Enact Geographical Indications Law to help certify Kenyan products and market	-	May, 2016	Presidency to facilitate oversight MOALF to implement AG, AFFA, Parliament- to facilitate review		
Total budget for consultations - KSh. 100 million					

B. COFFEE SUB-SECTOR SUBSIDY PROGRAMME

Administrative Intervention	**Budgetary Cost (KSh.)**		**Total (KSh.)**	**Timeframe**	**Responsibility**		
	1st Year –	Subsequent	(KSh.)	MTEF	**National**	**County**	**Others**
Fertilizer subsidy	758,400,000 Million	2nd to 3rd year- 2.47 billion	3.23 billion	July, 2016	Presidency to oversight MOALF to implement NT to provide funds	Counties to support implement; Farmers cooperatives and unions	CRI- research/extension services cooperatives to implement
Rehabilitation of pulping stations			500		Presidency to oversight	Counties to support	CRI- research/extension

Administrative Intervention	Budgetary Cost (KSh.)		Total (KSh.)	Timeframe	Responsibility		
	1st Year –	Subsequent	(KSh.)	MTEF	**National**	**County**	**Others**
(digital weighing machines, ICT, electricity and clean water	200 million	300 Million	million		MOALF to implement NT to provide funds	implement; Farmers cooperatives and unions	services cooperatives to implement
Funds for planting materials and training	1st Year-150 million	2nd Year- 40 million	190 million	July, 2016	Presidency to oversight MOALF to implement NT to provide funds	Counties to support implement; Farmers cooperatives and unions	CRI- research/extension services; cooperatives
Funds to support capacity building for farmers on coffee husbandry, processing, value addition, cooperatives business management	1st Year- 3.3 billion	2nd Year- 3.3 billion	6.6 Billion	July, 2016	Presidency to oversight MOALF to implement NT to provide funds	Counties to fund their equivalent share based on number of farmers	CRI- to do research; cooperatives to implement
Total coffee subsidy budget (2016/2017)- KSh. 4.43 billion (1.31 Billion Required from National Government and 3.1 Billion from							

Administrative Intervention	Budgetary Cost (KSh.)		Total (KSh.)	Timeframe	Responsibility		
	1st Year –	Subsequent	(KSh.)	MTEF	**National**	**County**	**Others**
Coffee Growing Counties							

NB: The subsidy funds required for 2017/2018 and 2018/2019 is KSh. 2.78 billion from National Government KSh. 3.3 Billion from County Governments

C. ESTABLISH COFFEE CHERRY ADVANCE PAYMENT SYSTEM

Administrative Intervention	Budgetary Cost (KSh.)		Total (KSh.)	Timeframe	Responsibility		
	1st Year –	**Subsequent years**	**(KSh.)**	**MTEF period**	**National**	**County**	**Others**
Set cherry advance revolving fund to be administered by CDU for settlement of about 40% (KSh. 15 per kg) per month of the price on delivery of cherry.	2.1 billion for setting advance revolving fund	3rd Year- 500 million	2.1 billion	July, 2016	Presidency to provide oversight MOALF to implement NT to provide funds NCE to remit payments once coffee is sold		Farmers cooperatives and unions to implement payment
Total budget cost-KSh. 2.1 billion							
CENTRAL DEPOSITORY UNIT TO ADMINISTER THE FUND							

D. MODERNIZATION OF NAIROBI COFFEE EXCHANGE

Administrative Interventions	Budgetary Cost (KSh.)	Timeframe	Responsibility		
			National	**County**	**Others**
Preliminary system upgrade	45 million	Immediate	MOICT to upgrade ICT system NT to provide funds MOALF to oversee		
Upgrade NCE to a full-fledged commodity exchange. Full upgrade of the auction platform to a web based on line bidding enabled including digitizing of farmers records	150 million	24 months, May, 2018	MOICT to upgrade ICT systems NT to provide funds MOALF to oversee		
Create and nest Central Depository Unit (CDU) at the NCE for settlement and payment of coffee proceeds			MOALF to facilitate creation of CDU NT to provide funds		
Staff capacity building and purchase of a vehicle	8.5 million	Immediate			
Total budget for modernizing NCE (2016/2017)-KSh. 203.5 million					

NB: KSh. 170 million will be required for further upgrade in 2017/2018

E. INSTITUTIONAL SUPPORT

Administrative Intervention	Budgetary Cost (KSh.)	Timeframe	Responsibility		
			National	**County**	**Others**
Transforming the management of Cooperatives by ensuring threshold of charges do not exceed 15% of net earnings to cooperatives	-		Presidency to provide oversight MOALF and Department of Cooperatives to enforce the 85-15 rule		Cooperatives to ensure 85-15 rule is operational
Enhance the capacity of MoALF-AFFA, KALRO, CRI) and State Department of Cooperatives for effective supervision and oversight of coffee subsector	-		Presidency to facilitate creation of the ministry Cooperatives MOALF and Department of Cooperatives to enforce the 85-15 rule		
Total budget requirement for capacity enhancement-KSh. 350 million					

F. MARKETING OF KENYAN COFFEE

Administrative intervention	**Budgetary Cost (KSh.)**	**Timeframe**	**Responsibility**		
			National	**County**	**Others**
Brand and promote Kenyan coffee locally and internationally	200 million		MOALF to facilitate implementation NT to provide funds AFFA, NCE, CMA and other agencies to promote local and international marketing		Brand Kenya and Tourism Board to carry out international expos and promotions
Total budget for marketing (2016/2017)-KSh. 200 million					

NB: KSh. 300 million will be required for marketing in 2017/2018

G. DEBT AUDIT AND WAIVER OF DEBTS

Administrative Interventions	Budgetary Cost (KSh.)	Timeframe	Responsibility		
			National	**County**	**Others**
Provide debt waivers and undertake forensic of level of debt at cooperatives	1.2 billion debt waiver balance 1.7 billion for STABEX, 100 million for audits	July, 2016	MOALF to coordinate audits NT to provide waiver funds KENAO to carry out audit		Cooperative societies and unions to provide debt records
Total debts and audit budget- KSh. 3 billion					

TOTAL BUDGETARY REQUIREMENTS

- National Government in 2016/2017 Financial Year= KSh. 4.2 Billion Excluding Debt Waivers
- Coffee Growing Counties in 2016/2017 Financial Year =KSh. 3.1 Billion

IN 2016/17 FY, THE NATIONAL GOVERNMENT WILL NEED KSH. 4.2 BILLION TO TURN AROUND COFFEE SUBSECTOR IN THE FOLLOWING AREAS:

a) Coffee sub-sector subsidy programme = KSh. 1.2billion

b) Revolving cherry advance payment fund =KSh. 2.1billion

c) Legal Reform= KSh. 100 million

d) Institutional Support=350 Million

e) Modernization of Nairobi Coffee Exchange = KSh. 203.5million

f) Marketing of Kenyan Coffee= KSh. 200 million

TOTAL IN NEXT FINANCIAL YEAR, 2016/17=KSH. 4.2 BILLION

Note: This excludes the Debt Waiver of KSh. 3 Billion as this had already been committed by Government before establishment of the Task Force.

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ANNEXES

Annex 1—List of Various Stakeholders Who Submitted Their Memoranda to the National Task Force on Coffee Sub-sector Reforms

Ministries

1. Ministry of Industry, Investment and Trade

Public Institutions

1. AFFA
    a. Coffee Directorate
    b. Nairobi Coffee Exchange
    c. Commodities Fund
2. Export Promotion Council
3. Capital Markets Authority
4. Kenya Roads Board
5. Coffee Research Institute
6. Council of Governors

County Government

1. County Government of Kiambu
2. County Government of Kisii
3. County Government of Nyeri

Co-operative Societies and Associations

1. Mount Kenya Farmers Cooperative Society Ltd.
2. Ngewa Komothai Medium Scale Coffee Planters Association
3. Kitwii Farmers Cooperative Society
4. Kangundo/Matungulu Coffee Farmers Association
5. Kipkelion District Cooperative Union (Kipkelion Coffee Mill)
6. Kariua Farmers Cooperative Society
7. Aberdare Coffee Planters
8. Bungoma County Cooperative
9. Machakos Cooperative Union Ltd.
10. Mt Elgon Farmers Cooperative Union Ltd.
11. Kenya Small Coffee Growers Association Nyamira County Branch
12. Kenya Small Coffee Growers Association (KESCOGA)
13. Kenya Planter Cooperative Union (KPCU)

14. Commercial Coffee Miller and Marketing Agents Association
15. Murang'a Farmers Cooperative Union

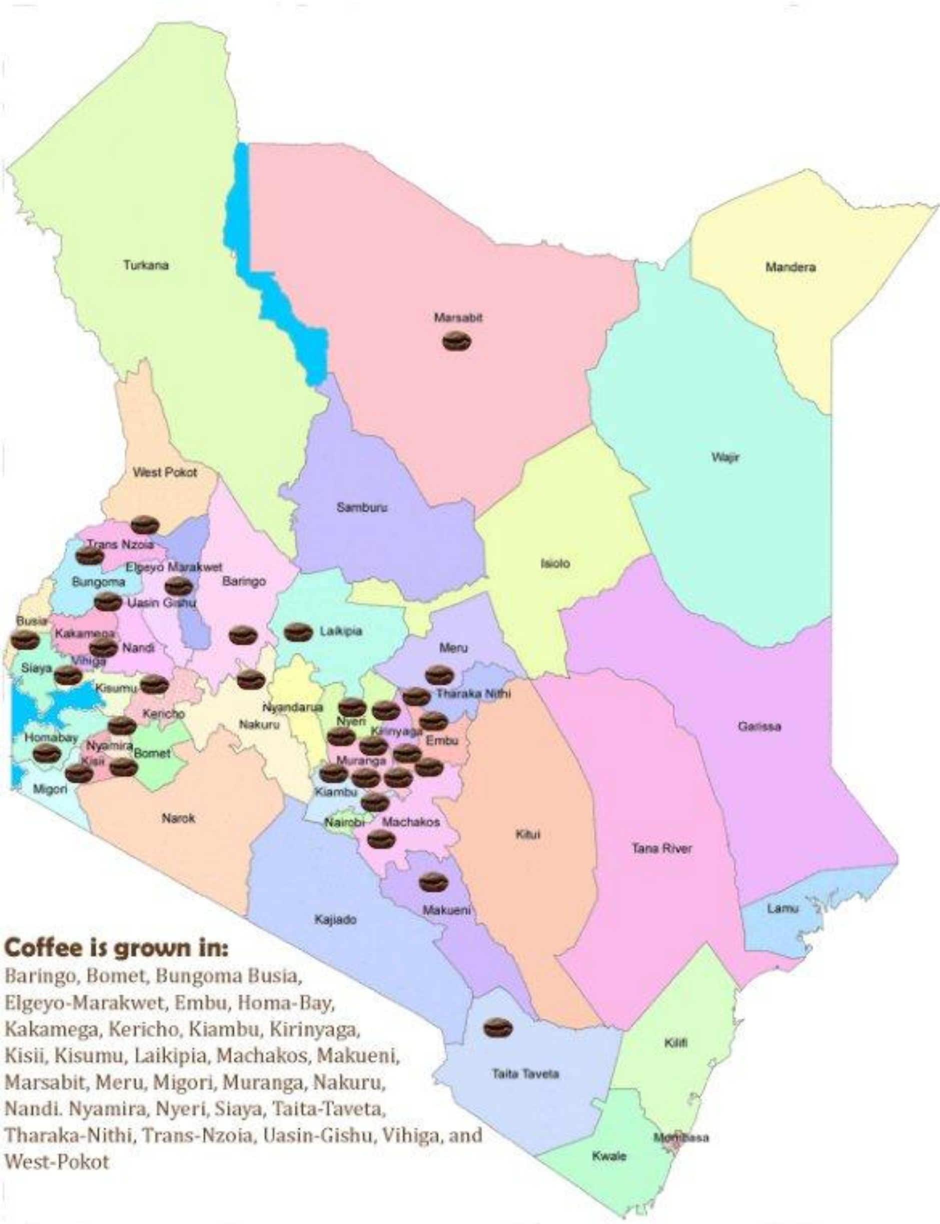
Companies and Private Organizations

1. Coffee Producers and Marketing Company Ltd.
2. Green Arava
3. Euro – Africa Industrial Engineering
4. Thika Coffee Mills
5. Green Earth – Kenya Bureau Office No. 7
6. Safaricom
7. Jambo Pay
8. Co-operative Bank of Kenya
9. Central Depository and Settlement Corporation (CSDC)
10. Co-operative Coffee Exporters Limited (KCCE)
11. Cooperative Marketing Society Limited
12. Africa Coffee Farmers Network
13. Mitchell Cotts Ltd.
14. Nestle Equatorial African Region Ltd.
15. Ace Global Depository

Private and Individual Submissions

1. Hon. Kabando wa Kabando
2. Mr. Chomba Njeru
3. Mr. Samuel Kaganyi
4. Mr. Michael Gitau
5. Mr. Oenga Andrew Anyona – Kisii Original/consultants
6. Mr. Robinson Ngano, Chairman Kibugi Farmers' Cooperative Society – Embu
7. Mr. Joseph KiplimoKurui
8. Mr. Josphat Miano
9. Mr. Kariuki Muiiri
10. Anonymous Sources

Annex 2—Coffee Growing Zones



Annex 3—Licensed Millers 2015/2016

Mill			County
Commercial	1	Thika Coffee Mills (K) Ltd.	Kiambu
	2	Sasini	Kiambu
	3	Highlands Coffee Co. Ltd.	Kiambu
	4	Kofinaf Company Limited	Kiambu
	5	NKG Coffee Mills (K) Ltd.	Kiambu
	6	Othaya Farmers Cooperative Society Mill	Nyeri
	7	Central Kenya Coffee Mills	Nyeri
	8	Kenya Cooperative Miller	Kirinyaga
	9	Hema Coffee Mills	Kisii
Private	10	Gusii Farmers Cooperative	Kisii
	11	Kipkellion Coffee Farmers Cooperative Union	Kericho
	12	Lower Eastern Cooperative Coffee Mills	Machakos
	13	Meru County Cooperatives Union Mill	Meru
	14	Meru County Coffee Mills	Meru
	15	Tharaka Nithi Cooperative Union County Coffee Mills	Tharaka Nithi
	16	CMS Mills Ltd	Uasin Gishu
	17	Eastern Aberdares Cooperative Coffee Mills	Murang'a
	18	Kenya Planter Cooperative Union (KPCU)	Nairobi, Sagana, Meru, Tala Dandora

Source: Government documents

Annex 4 — Monthly Direct Sales 2012-2015

Coffee Year	Calendar Year	Month	Weight (kg)	Number of bags(60 Kgs)	Fob Value (US$)	Average of Price/50 Kgs(US$)
2012/13	**2012**	October	393,573.02	6,559.63	1,906,453.74	278.72
2012/13	**2012**	November	415,226.02	6,920.17	1,855,765.92	236.92
2012/13	**2012**	December	366,284.02	6,105.17	1,710,393.10	245.80
2012/13	**2013**	January	429,570.02	7,160.17	2,048,999.46	251.76
2012/13	**2013**	February	422,139.22	7,035.17	2,080,232.98	252.59
2012/13	2013	March	346,231.42	5,770.22	1,704,581.28	220.48
2012/13	2013	April	209,810.92	3,496.84	1,081,514.34	220.64
2012/13	2013	May	388,902.42	6,479.39	1,728,976.60	259.14
2012/13	2013	June	291,527.17	4,858.79	1,514,695.15	277.03
2012/13	2013	July	355,817.17	6,263.62	1,943,315.15	264.98
2012/13	2013	August	98,141.37	3,135.62	45,664.32	173.00
2012/13	2013	September	78,205.37	1,303.62	325,379.85	248.89
	Sub-Total		**3,724,428**	**65,088**	**17,945,971.89**	**241.57**
2013/14	**2013**	October	309,336.00	5,155.60	1,982,320.50	260.38
2013/14	**2013**	November	481,002.00	6,349.97	2,033,018.28	215.53
2013/14	**2013**	December	795,354.00	13,263.77	3,665,244.27	205.73
2013/14	**2014**	January	709,136.00	11,818.35	3,832,479.67	234.10
2013/14	**2014**	February	888,711.00	13,145.85	4,247,683.32	263.75
2013/14	**2014**	March	706,473.00	11,772.53	3,734,946.93	308.46
2013/14	**2014**	April	844,251.00	14,071.75	4,633,699.68	274.31
2013/14	**2014**	May	1,802,605.00	26,710.52	7,653,771.09	259.53
2013/14	**2014**	June	743,350.80	12,388.88	4,973,655.09	229.42
2013/14	**2014**	July	339,678.41	5,661.47	1,571,016.51	190.81
2013/14	**2014**	August	362,852.60	6,047.50	2,762,943.02	334.09

2013/14	**2014**	September	295,098.00	4,918.28	1,933,850.54	299.71
	Sub-Total		**8,282,848.80**	**131,304.47**	**42,988,034.26**	**259.53**
2014/15	**2014**	October	158,574.00	2,640.97	962,639.59	293.48
2014/15	**2014**	November	139,577.00	2,325.82	868,231.81	301.64
2014/15	**2014**	December	194,066.00	3,235.03	1,102,956.12	314.80
2014/15	**2015**	January	657,332.60	10,954.64	2,707,977.66	395.41
2014/15	**2015**	February	239,897.00	7,331.12	2,774,064.38	378.54
2014/15	**2015**	March	925,917.59	15,432.64	6,267,757.60	332.43
2014/15	**2015**	April	1,354,659.80	22,577.95	7,176,781.54	269.33
2014/15	**2015**	May	749,038.94	12,483.70	5,235,906.13	333.90
2014/15	**2015**	June	1,318,211.96	21,969.43	3,958,163.95	266.61
2014/15	**2015**	July	454,645.00	7,578.05	2,983,380.68	315.04
2014/15	**2015**	August	568,939.00	9,482.87	3,797,542.24	283.16
2014/15	**2015**	September	438,545.00	7,309.13	2,746,463.93	277.24
	Sub-Total		**7,183,403.89**	**123,321.35**	**40,581,865.62**	**278.63**

Annex 5—Summary of Coffee Sales and Prices at the NCE for 2014/15

Nairobi Coffee Exchange

Sales Summary per Grade

All Marketers As at the end of September 2015 2014/2015 Season

Grade	*Full Bags Bought*	*Weight Bought*	*Min PRICE*	*Max PRICE*	*Avg PRICE*	*VALUE (US $)*	*Percent*
Main Coffee Grades							
AA	94,583	5,787,080	77	675	282.81	32,732,849.40	16.65%
AB	199,245	12,095,625	76	501	231.51	56,006,058.48	34.80%
C	93,205	5,716,951	60	267	194.21	22,205,210.92	16.45%
E	1,365	85,283	182	346	264.51	451,159.40	0.25%
PB	23,486	1,469,373	76	401	224.53	6,598,244.58	4.23%
T	22,374	1,369,530	22	232	123.10	3,371,682.80	3.94%
TT	16,906	1,052,093	30	274	185.88	3,911,266.16	3.03%
Sub-Total:	**451,164**	**27,575,935**	**22**	**675**	**227.15**	**125,276,471.74**	**79.35%**
Miscellaneous Coffee							
HE	5,462	337,996	31	233	141.96	959,642.58	0.97%
SB	1,127	64,147	31	116	61.45	78,842.50	0.18%
UG	2,309	140,350	51	230	162.20	455,308.26	0.40%
UG1	31,397	1,917,576	32	247	156.30	5,994,453.58	5.52%
UG2	15,120	930,913	30	220	114.39	2,129,823.40	2.68%
UG3	468	28,976	37	167	81.00	46,939.48	0.08%
Sub-Total:	**55,883**	**3,419,958**	**30**	**247**	**141.30**	**9,665,009.80**	**9.84%**
Unwashed Coffee							
MH	47,577	2,886,318	55	196	107.64	6,213,714.68	8.30%
ML	14,114	870,224	15	141	77.50	1,348,932.26	2.50%
RH	28	1,731	90	90	90.00	3,115.80	0.00%
Sub-Total:	**61,719**	**3,758,273**	**15**	**196**	**100.65**	**7,565,762.74**	**10.81%**
Grand Total:	**568,766**	**34,754,166**			**205.02**	**142,507,244.28**	**100.00%**

Prices in US Dollars per 50kg

Annex 6—Proposed Legislative Amendments

	Legal Provision	The Problem/Issue	Justification for Amendment	Proposed Amendment
1	**Agriculture, Fisheries and Food Authority Act, No. 13 of 2013**	The AFFA Board does not have any representation from the Counties and other actors in the agricultural value chain The funds of the Authority under section 16(2) include monies paid to the Authority as fees and levies, while the same fees and levies form part of the Commodities Fund under section 9 of the Crops Act.	Agriculture is a devolved function under the Constitution and it is necessary for the Counties to be represented on the Authority for ease of collaboration between the two levels of government. The provision causes an overlap and compromises the operations of the Commodities Fund.	Amend Section 5 (1)(k) to replace chairman of the Transition Authority with one person who will represent the Council of Governors. Amend 5 (i) to allow representation by key actors in the agricultural value chain Section 16(3) Delete and substitute therefore the following new subsection: (3) *The Authority shall apply the funds received under this section, except the levies received under subsection (2), for the furtherance of the objects and performance of the functions of the Authority*. Insert the following new subsection immediately

				after subsection(3)- (4) *The levies received under subsection (2) shall be applied for the purposes of the Commodities Fund established under the Crops Act, 2013*.
2	**Crops Act, No. 16 of 2013**	The Act relates to all scheduled crops, and does not have special provisions relating to coffee	Provisions relating to coffee in the repealed Coffee Act, Cap 333 are missing in the Crops Act.	Prepare new Coffee Regulations under the Crops Act for the regulation of the coffee industry and define the terms that relate specifically to coffee.
		Sec. 2; Amend the Interpretation Section to recognize business membership organization	To recognize all stakeholders in the value chain for inclusion in policy consultations and AFFA electoral college	Insert, ''business membership organization' means a body corporate registered under an act of parliament formed to advance the interests of stakeholders in the agriculture value chain.
		Sec 2; Amend the Interpretation Section to recognize public interest in developing the regulations	to improve the quality and relevance of regulations made under this act to pursue public good as well as comply with Bill of Rights in the Constitution	Insert: 'public interest means anything affecting the rights, health, or finances of the public at large'

		Sec. 8; promotion of scheduled crops – powers granted to Authority	8(a, g,h,I,k,l,m,p) – grants authority responsibilities reserved of the cabinet secretary and other statutory bodies under the state Department of Agriculture.	delete 8a, g, h, I, k, l,m,p
		Sec.9 (3). Commodities Fund – governance 10(2); Application of the fund	A conflict – authority granted powers to appoint the CODF Board of trustees Conflict – Authority is making rules, not Cabinet Secretary	Replace 'authority' in 9(3) Cabinet Secretary Replace 'authority' in 10(2) with Cabinet Secretary
		License fees and levies are charged by the government for all scheduled crops. The levies charged with respect to coffee amount to 4% and are for the Coffee Directorate, Road levy and Research	These should be funded by the government not the coffee farmer.	The Coffee Regulations proposed under the Crops Act should not impose any levies.

		This imposes a heavy burden particularly on the smallholder. In the State of the Nation address by H.E the President on the 24th March 2016 it was stated that these levies would be abolished.		
		Under section 14(1) (a) of the Act it is provided that a smallholder grower may join a cooperative society for purposes of accessing economies of scale.	A smallholder grower has been granted freedom of association under the Constitution, and accordingly the farmer should also be free to join any other coffee association which is convenient, in order to remove the impression that the smallholder has no option but to join a co-operative society.	Amend section 14(1) (a) to read as follows- (1) Every smallholder grower, for purposes of accessing economies of scale, shall have the freedom - (a) in the case of coffee growers, to register with the cooperative society to which the persodelivers his coffee, *or to join any other entity or association that represents the coffee growers' interests;* This freedom should be extended to other crops listed in Section 14 (1).

				This will strengthen section 14(3) which provides that a farmer's agreements with organizations that represent the interest of such farmer will be given effect.
		Sec. 15. Registration of growers' associations	Section is discriminatory by not recognizing other stakeholders in the value chain	Replace 'growers' associations' in the title with 'entities in the value chain'. Reword the text under the title as follows: 'the authority shall maintain a register of all entities in the agriculture value chain, being growers, agents, dealers, business membership organizations in such form as it may determine'., and delete all other text, including 15 a, b.c,d. The format to be provided for in regulations.
		Section 18 of the Act provides that manufacturing and processing of a scheduled crop must not be done without a license.	The Act does not have a definition of "manufacturing".	The term "manufacturing" in relation to coffee should in the Coffee Regulations be defined so as to include "*pulping, milling, and roasting of coffee*.
		Section 19 of the Act criminalizes illegal manufacturing and possession of scheduled crops (which include	The punishment should be lenient for a smallholder farmer who carries out any of the stated activities	The law prescribes the maximum sentence, but it is necessary to sensitize the judicial officers in the exercise of their discretion in relation to smallholder farmers.

		coffee). It imposes a fine of ten million shillings and imprisonment for a term of five years, together with other penalties that include forfeiture of property.	without a license.	
		Sec. 25(1, b) makes Cabinet secretary an arbitrator, rather than a tribunal	25(1, b) makes Cabinet secretary an arbitrator, rather than a tribunal	Insert 'a tribunal established by', and delete 'to the' after appeal. Delete and replace 25 (2) with; 'an appeal under this section shall be lodged and determine as per the rules issued by the tribunal'
		Miscellaneous provisions; sections 31,32,33,34,35 ,36,37,38,39,40,41	These sections have several errors, among others: conflict with public interest, gives AFFA powers of the Cabinet secretary to make subsidiary legislation as well as assuming responsibilities of other statutory agents such as KEPHIS, KALRO	Re-draft these sections to remove these contradictions as well as avoid duplication/conflict with the roles of Cabinet Secretary, other statutory bodies and County Governments.

			etc.	
3	**The Co-operative Societies Act**	Agriculture has been devolved to the Counties and the Act ought to be amended to incorporate the role of counties and provide for a working mechanism for interaction between the two levels of government and to police the co-operative societies effectively.	National government must develop a national policy regarding farmers' cooperative societies through amendments to the Cooperative Societies Act to avoid a situation in which different counties will enact their own cooperative societies' laws which are not consistent with national laws and which may not effectively protect the interests of the farmer or be in line with the national policy or the Constitution.	With regard to coffee, a distinction ought to be made between the premises where pulping or milling of coffee by a cooperative society is done, which requires a business permit from the County, and the business of Pulping and milling, which should be regulated by the national government through AFFA for the setting up and maintenance of standards of coffee. The National Government has a major role to play in the enforcement of the Act.
		Section 28 of the Act does not prescribe the qualifications for members of management committees of co-	Set the bar higher in order to attract more and better qualified people to run cooperatives.	Amend Section 28 on qualifications for members of the governing body as follows- Amend section 28(2) to set the requirements as follows-

		operative societies.		1. Qualifications- (a) attain KCSE certificate or its equivalent; (b) fulfilled all the requirements of chapter six of the Constitution; (c) Obtain clearance from the Ethics and Anti-Corruption Commission before the election or re-election, and (d) Immediately on appointment attend a mandatory induction course for cooperative management 2. The management committee shall keep the members of the society fully informed of all matters in the cooperative society and ensure that there is transparency and accountability in the discharge of their functions. 3. The committee shall maintain separate bank accounts for the funds of the cooperative society and the funds due to the grower and shall not receive any money belonging to the grower into the account of the cooperative.

				4. There shall be no borrowing of funds by the management committee on behalf of the cooperative society unless the same has been duly approved by the members of the cooperative society Annual General Meeting of members and the Commissioner for Co-operatives and the loan is to be obtained from a financial institution recognized and licensed by the Central Bank of Kenya. 5. Before taking office, every member of the committee shall publicly declare his wealth and the said information shall subsequently be made available to the members of the cooperative society any time on request; 6. No person shall serve as a management committee member for more than two terms of five years each.
		Section 32 of the Act prescribes penalties for violations of the society by- laws.	This should be amended to define the offences involving theft of the society's money as economic crimes. The penalties should be enhanced to deter the commission of the offences and serve as model for recovery of the monetary losses that	The fines should be enhanced to two hundred thousand shillings, to be recoverable as a civil debt. Any official or other member of the management committee who occasions loss of funds to the co-operative society shall be deemed to have committed an economic crime and investigated by the Ethics and Anti-Corruption Commission and action taken under the Anti- Corruption and Economic Crimes Act.

			will likely arise from the conduct of the officials of the cooperative society.	
4	**Review and Fast Track enactment of Warehouse Receipts Systems Bill, 2015**	There is no legal framework for the development and regulation of a warehouse receipt system for all agricultural commodities.	The Warehouse Receipt Systems Bill is awaiting enactment in the National Assembly.	There is a proposal to upgrade Nairobi Coffee Exchange into a modern Commodities Exchange for coffee and all other agricultural products. The Warehouse Receipt System law is necessary to ensure the efficiency, effectiveness and credibility of the system, establish a structured system and a central registry for management of issuance and transfer of the warehouse receipts which can be traded with as futures.
		Part 11: establishment of the warehouse receipt system council and central registry	This section duplicates the powers granted to AFFA to regulate trading in agricultural produce, and Capital Markets Authority (CMA) to regulate depositories under the Central Depositories Act.	Delete part 11 and replace all references to 'Council' with AFFA and CMA in exercise of their powers granted under AFFA Act 2013 and Crops Act, 2013, and Central Depositories Act, 2000 respectively.
5	**Capital Markets Act** **(Cap. 485A)**	The Nairobi Coffee Exchange is not a modern commodities Exchange. It is open to a few licensed	The Capital Markets Authority (CMA) has the mandate to regulate and develop capital markets, but is not yet	Amend the CMA Act to: • Introduce the following new definition - "spot commodities market" means a market at which commodity contracts are regularly made and

		players, and its operations are not well known to farmers.	a regulator for spot commodities.	traded for immediate delivery; • Introduce the following provision under the powers, functions and duties of CMA - supervise, monitor and regulate trading activities in the spot commodities markets; • Introduce the following provision as one of the areas where the Cabinet Secretary, National Treasury will issue Regulations and Rules in consultation with CMA - the operations and supervision of trading activities in the spot commodities markets
6	**Geographical Indications Bill**	The Geographical Indications law is not yet in place in Kenya	When the price of a product takes into account its origin, reputation, and its qualities, its value rises along with the price, leading to better distribution of revenues throughout the income chain.	The development of the Kenyan geographical indications law should be expedited to help identify Kenyan products and market them exclusively in a specialty market in order to distinguish them from products from other countries. Such a law would greatly benefit the coffee industry because it would facilitate identification and marketing of Kenyan coffee which is one of the leading brands in the world
7	**The (Nairobi) Coffee (Exchange Trading) Rules, 2012**	The Nairobi Coffee Exchange holds only one auction each week subject to availability of coffee. The players are	There is need to open up the trading on a special day to enable ordinary Kenyans to trade in coffee for local roasting. This will	NCE should be transformed into a body corporate through registration as a public company limited by guarantee with the government initially holding the same in trust for farmers and the articles of association clearly providing for transparent trading and opening up the floor to coffee growers.

		dealers and marketing agents representing buyers and growers of coffee, and trading is in USD. Farmers are not allowed to sell their own coffee at the Exchange unless they acquire a marketing agent's license for which they must provide a USD one million bank guarantee. There is lack of transparency and effective price discovery mechanisms	trigger many people's interest in coffee especially the youth.	However in the meantime, new regulations should be gazetted immediately to provide that the Exchange shall appoint an auctioneer as its employee to run the auction and that the Exchange shall also set aside one day in every two weeks for a special auction dedicated to sale and purchase of clean coffee by local traders in which trading shall be in Kenya Shilling.

Annex 7—Task Force's Draft Coffee (General) Regulations, 2016

COFFEE (GENERAL) REGULATIONS, 2016

ARRANGEMENT OF REGULATIONS

THE CROPS ACT, 2013

(No. 16 of 2013)

IN EXERCISE of the powers conferred by Section 40 of the Crops Act, 2013 the Cabinet Secretary, in consultation with the Authority, makes the following regulations—

THE COFFEE (GENERAL) REGULATIONS, 2016

PART I-PRELIMINARY

Citation and commencement.

1. These regulations may be cited as the Coffee (General) Regulations, 2016 and shall commence on such a date as the Cabinet Secretary may, by notice in the Gazette, appoint.

Interpretation.

2. In these rules, unless the context otherwise requires-

No. 13 of 2013

"Act" means the Crops Act, 2013;

"agent" means a person appointed by a grower to carry out any functions licensed under these regulations on behalf of the grower;

"Authority" means the Agricultural, Fisheries and Food Authority established under Section 3 of the Agricultural, Fisheries and Food Authority Act, 2013;

"Board;" means the Board of the Authority established under section 5 of the Agriculture Fisheries and Food Authority Act 2013;

"broker's contract" means a contract between a seller and a buyer for the trading on the Exchange;

"broker" any person licensed by the Capital Markets Authority to act as an intermediary at the Exchange;

"Cabinet Secretary" means the Cabinet Secretary for the time being responsible for agriculture, fisheries and livestock;

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

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

"coffee association" means a group comprised of coffee growers, either in co-operative societies or estates, coffee unions, coffee millers, traders, roasters, or companies, which has been registered by the Authority and given a registration certificate;

"coffee branding'' means the identification of coffee by defined characteristics, a specific name or origin;

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

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

"coffee miller” means a person licensed by the Authority in consultation with the respective county government to conduct the business of coffee milling;

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

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

“coffee roaster” means a person means the holder of roaster license.

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

''Coffee trader'' means a person licensed to buy coffee at the exchange.

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

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

"collateral manager" means an institution appointed to take custody of coffee at a warehouse licensed by the Capital Markets Authority;

"co-operative society" means a co-operative society registered under the Co-operative Societies Act;

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

"dealing in coffee" means dealing with **the** crop within the meaning of the Act;

"direct sale" means a contractual arrangement between a grower and a buyer for the sale of clean coffee based on mutually accepted terms and conditions enforceable in law;

"Exchange" means the Nairobi Coffee Exchange or any other Exchange licensed by the Capital Markets Authority;

"grower" means any person who cultivates coffee in Kenya and is registered with the Authority;

"grower miller" means a grower who mills parchment or *buni* from his or its own holding and includes a co-operative society or union which mills its members' coffee;

"inspector" means an inspector appointed by the Authority and includes a county agricultural officer designated by the Authority by notice in the Gazette;

"licensee" means a person licensed by the Authority;

"licensing authority" shall have the meaning assigned to it under the Act;

"manufacturing" means processing coffee by pulping, milling and roasting;

"out-turn number" means an identifying number issued by a miller milling in respect of coffee delivered to a mill;

"out-turn milling statement" means a statement prepared by a miller after the completion of the milling process;

“private miller” means a person who mills parchment or *buni* coffee from his or its own coffee estate;

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

"prompt date" means a date specified in the sales catalogue, not being more than seven calendar days from the date of the sale, for the receipt of coffee sales proceeds by a broker from the trader;

“pulping station” means a coffee factory or place where coffee cherry is processed into parchment coffee;

“respective county government" means the government of the county within which the land where activities to which these regulations apply is situated;

"sales catalogue" means a standard document prescribed by the Authority and prepared by a broker for sale of clean coffee at the Exchange;

"settlement account" means an account by a grower in the central depository system operated by the exchange into which all coffee sales proceeds are paid.

"sweepings” means the balance of coffee samples in the sample room not distributed as samples to the traders and spillages collected from millers’ milling activities which are handed over to the brokers for sale, provided that the proceeds accruing shall be paid to growers on pro-rata basis;

“trading floor” means the physical space and all the facilities including; equipment, records and assets provided by or belonging to or in the use of the Exchange*;*

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

"warehouseman" means any person who owns, leases or is in charge of a warehouse where coffee is handled and stored for reward or profit;

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

Purpose of the regulations.

3. The purpose of these regulations is to provide for the regulation, promotion and development of the coffee industry in Kenya.

PART II- FUNCTIONS OF THE AUTHORITY

Functions of the Authority.

4. (1) The Authority shall carry out such activities and do such things as are necessary to promote, develop and regulate the coffee industry for the benefit of coffee growers and the coffee industry.

(2) In consultation with the respective county governments the Authority shall—

(a) facilitate the issuance of coffee trade and manufacturing licenses,

(b) co-ordinate training programmes for players in the coffee value chain;

(c) enforce national regulations and quality standards in the coffee industry;

(d) collect, collate and maintain information and data base on the coffee industry including current and future production, processing, marketing and consumption;

(e) conduct market intelligence and promotion activities on Coffee both locally and internationally;

(f) establish linkages with various government agencies including county government and private research institutions for the conduct of studies and researches designed to promote the production, marketing, processing and consumption of coffee;

(g) develop and promote strategies and initiatives for value addition;

(h) promote the application of the National Coffee Kenya Mark of Origin by local and international industry players;

(i) recommend general industry guidelines for interaction between coffee farmers and manufacturers; and

(j) promote the development of regional appellations for Kenyan coffee.

(3) The Authority shall develop a Coffee Industry Code of Practice for all holders of licenses under these regulations.

Registration.

5. (1) Every coffee grower shall register with the Authority for purpose of data collection.

(2) A grower who joins a co-operative society or any other association or legal entity, shall notify the Authority through that Co-operative Society or other entity;

(3) The Authority shall maintain up-to-date registers of all coffee co-operative societies, coffee associations, coffee estates and nursery operators.

Application for a license.

6.(1) Every person intending to conduct coffee business shall apply to the Authority using the respective application forms set out in the First Schedule, and shall be issued with the registration certificate or license, as the case may be, in the corresponding forms set out in the same Schedule.

(2) Every coffee dealer shall produce the certificate or license respectively issued under sub regulation (1) upon request by an inspector at all reasonable times.

(3) The Authority shall maintain up-to-date records of all persons registered or licensed under this

regulation.

Prohibition to operate without a license.

7. No person shall, for commercial purposes—

(a) buy, sell, pulp, mill, warehouse, export or otherwise deal in or transact any business in coffee unless he is a holder of a current license issued by the Authority for that purpose.

(b) transport or be in possession of any coffee unless he is licensed to carry out any of the activities specified in paragraph (a) and is the holder of a movement permit issued by the licensing authority of the respective county, or is legally acting in the course of his employment as a servant or agent of a person holding such a license or permit:

Provided that this regulation shall not apply to a grower

Licensing by the Authority in consultation with county governments.

8. (1) The following certificates and licenses shall be issued by the Authority in consultation with the respective county governments —

(a) a coffee nursery certificate authorizing the holder to establish and run a coffee nursery;

(b) a pulping license authorizing the holder to operate a pulping station;

(c) a coffee grower'*s* milling license authorizing the holder, being a co-operative society or other legal entity comprising growers, to pulp, mill, market and or roast coffee;

(d) a commercial miller's license authorizing the holder, to conduct the business of milling coffee at a fee;

(e) a coffee roasters' license authorizing the holder to conduct the business of roasting coffee for local sale or for export;

(f) a warehouseman's license authorizing the holder to conduct the business of warehousing coffee; and

(g) a coffee traders' license authorizing the holder to buy clean coffee from the Exchange or import clean coffee from outside Kenya for processing in Kenya for sale locally or for export;

(2) The licenses issued under this regulation shall be subject to such conditions as the Authority may prescribe.

(3) A grower may enter into an agreement with other growers within the same county or region for purposes of accessing economies of scale in pulping, milling, warehousing, marketing or roasting coffee, and shall for that purpose-

(a) apply for the necessary licenses from the Authority; or

(b) where the parties to the agreement already hold such licenses, inform the Authority accordingly in writing.

Limitation of a coffee trader's license.

9. (1)A holder of a coffee trader's license or any other entity associated with him shall not be licensed as a commercial miller, or broker or warehouseman.

(2) The Authority may revoke any license which is found to be held in contravention of sub regulation (1).

Conditions of license.

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

(2) The Authority shall not issue a license under these regulations unless the person meets the conditions of licensing;

(3) All licensees shall specify the premises upon which the business specified in the license shall be conducted.

(4) There shall be payable for the issuance of licenses such fees as the Authority may prescribe after consultation with the Cabinet Secretary.

(5) Every licensed person shall comply with the

Coffee Industry Code of Practice.

(6) Every licensee shall submit a letter of undertaking to remit returns to the Authority.

(7) A license holder who contravenes the terms and conditions of the license shall be given a first and second warning by the Authority and where the contravention continues, the Authority may suspend or cancel the license.

Licensing procedure

11.(1).The Authority may, after inspection and evaluation of an application received under these regulations, grant ***the*** license applied for or reject the application.

(2) Where an application is rejected, the Authority shall notify the applicant accordingly, giving reasons for the rejection and pointing out the reasons leading thereto within fourteen days after the date of the decision of the Authority.

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

(4) Where an application is rejected after resubmission under sub regulation (5), the applicant may appeal to the Cabinet Secretary within 30 days after notification of the rejection by the Authority.

(5) The Authority shall process the licenses for successful applicants in accordance with the provisions of the Act.

Duration of licenses.

12. Licenses issued by the Authority shall expire on the 30th June of every year and license holders wishing for renewal thereof may apply by the 30th May preceding the expiry of the license.

Movement permits.

13. (1) The movement of coffee shall be managed through the issuance of movement permits by the respective County Governments, provided that no movement permit shall be issued under these regulations to any person other than a licensee, and the licensee shall not alter the name entered thereon.

(2) No person shall move coffee or cause any coffee to be moved without an original movement permit issued by the Authority in accordance with sub regulation (1).

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

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

(5) Any person who moves coffee contrary to this regulation commits an offence.

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

(7) The movement of parchment from a pulping station operated by a Co-operative Society shall authorize such transportation to millers within the county or the next nearest miller in the interest of saving on costs.

Obligations of licensees.

14. (1) Licensees under these regulations shall observe the obligations set out in the Third Schedule.

(2) The obligations set out in the Third Schedule shall be implied in every contract between a grower and a grower's agent.

PART IV—PRODUCTION AND PROCESSING

Notification after planting or uprooting coffee

15. (1) Every grower who plants or uproots coffee shall, within six months after doing so, inform the Authority in writing of the area of coffee planted or uprooted.

(2) Every grower who is a member of a co-operative society and who plants or uproots his or her coffee shall, within three (3) months of doing so, inform the co-operative society in writing of the area and number of trees planted or uprooted.

(3) The co-operative society to which a report is made under sub regulation (2) shall inform the Authority accordingly in every year after registering

such details from the grower.

Notification after change of details of farm or estate.

16. Any grower who changes the details of his farm or estate as registered with the Authority, whether on a subdivision of the estate or otherwise, shall report such changes to the Authority.

Coffee Production and processing standards.

17.(1)The Cabinet Secretary shall develop a coffee industry policy which shall articulate coffee production, processing and marketing practices towards adoption of modern coffee production and processing technology.

Certification of Coffee.

18. (1) The Authority shall develop and promote a coffee certification scheme in Kenyan coffee in consultation with the respective county governments and coffee growers.

(2) The certification schemes operating within the coffee industry shall be registered with the Authority.

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

(4) Coffee millers and marketing agents may seek certification to ensure quality of service and market confidence.

(5) Certified coffees shall be declared by the broker in the sales catalogues and sold in accordance with Guidelines for the Sale of Certified Coffees as provided by the Exchange.

(6) The standard coffee grades shall be as provided in the Third Schedule.

Prohibition in issuance of coffee seeds or seedlings

19. (1)No person, other than the Kenya Agricultural Research and Livestock Organization or its authorized agents operating laboratories or tissue culture units under their supervision, shall issue certified coffee seeds or seedlings for multiplication in any coffee nursery to any other grower or for export.

(2) No person shall establish or operate a coffee nursery unless the person is registered with the Authority in collaboration with the respective County.

(3) A person shall not be issued with a certificate of registration for a nursery, unless an inspector—

(a) visits and inspects the site and is satisfied that the site is suitable for establishment of a nursery; and

(b) is satisfied that the nursery operator or their agents have adequate knowledge of nursery management and production techniques.

(4) The Kenya Plant Health Inspectorate Service shall issue phytosanitary certificate in respect of all certified planting materials.

Requirements relating to coffee milling.

20. (1) The milling of coffee may be carried out by-

(a) a coffee grower or grower's co-operative society, under a coffee grower's milling license;

(b) a commercial miller under a commercial millers license.

(2) The business of coffee milling shall only be conducted at any premises that are specified in the register maintained by the Authority.

(3) A miller shall ensure that the grower or grower's representative are notified and are present during the milling process.

(4) A commercial coffee miller shall take out insurance cover against fire, theft and other risks for all coffee delivered for milling and for milled coffee which has not yet been handed over for marketing.

(5) Every miller shall account for mill spillage or sweepings and all other coffee by-products to the Authority and the growers or at such frequency and in a format prescribed by the Authority.

(6) The Authority shall prescribe the maximum proportion of milling losses allowable per parchment type and publicize the information in such a manner as to be easily accessible to the grower.

(7) A grower who mills his own coffee shall ensure production and delivery records are submitted to the Authority form C3 set out in the First Schedule.

(8) For purposes of direct sales, a miller shall categorize and bulk coffee to meet specific market

requirements as instructed by the grower.

PART V—COFFEE TRADE AND MARKETING

Coffee marketing.

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

(a) the Exchange; and

(b) direct sales.

Coffee sales.

22. (1) A grower, Co-operative Society or other association may undertake direct sales of coffee from a licensed coffee warehouse and shall inform the Authority accordingly.

(2) The notification under sub regulation (1) shall contain the details of the contract of sale, and the proceeds of the sale shall be handled in accordance with the rules of the Exchange with respect to such sales.

(3) Direct sales shall be conducted according to the guidelines issued by the Capital Markets Authority.

(4) Trading of coffee at the Exchange shall be conducted in accordance with the relevant rules governing trading at the Exchange.

Sales Catalogue.

23. (1) The Miller shall prepare a sales catalogue for all the coffee transferred to a warehouse and shall forward it to the Exchange for sale as per the schedule provided by the trading rules.

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

Coffee promotions.

24. (1) The Authority shall co-ordinate coffee stakeholders, including growers and marketers, for the holding of international events for the promotion of Kenyan coffee in the international arena.

(2) Respective county governments may mobilize growers for centralized coffee marketing in the overseas markets and conduct promotional activities both locally and internationally within the established legal framework.

Coffee warehousing in designated warehouses

25. (1) All coffee shall be stored in warehouses duly licensed by the Authority.

(2) No premises shall be designated as a coffee warehouse by the Authority unless the premises are inspected, approved, and registered as such.

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

(4) The Authority shall cause warehouses and warehousing activities to be inspected on a regular basis.

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

(6) No warehouseman shall have a lien of any nature over coffee whether in his possession or not.

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

(8) No coffee shall be removed from a warehouse without a coffee warrant issued by the Exchange and registered with the warehouseman.

Export and import of coffee.

26. (1) No person shall export coffee or cause any coffee to be exported unless a phytosanitary certificate of inspection is produced to the Commissioner of Customs and Excise along with a certificate of origin or a certificate of re-export, as the case may *be*, relating to such coffee.

(2) No coffee grown outside Kenya shall be entered into Kenya in transit for export unless accompanied by a certificate of origin.

(3) No coffee imported into Kenya shall be re-exported in any condition or quantity other than that in which it was imported into Kenya except with a certificate of re-export.

(4) A certificate of origin for coffee produced outside Kenya shall be valid only if issued by the certifying agency of the relevant country and endorsed and completed by the relevant government agency of that country.

(5) A certificate of origin for coffee grown in Kenya, and any certificate of re-export for coffee grown outside Kenya but re-exported from Kenya, shall be issued only by the Authority.

(6) The Authority shall authorize and monitor the importation of coffee into Kenya.

Prohibition against blending.

27. (1) A person who blends any or various grades or classes of coffee produced in Kenya with any other coffees produced outside Kenya shall not represent such coffee as coffee having its origin in Kenya.

(2) Any person who contravenes the provisions of this regulation commits an offence.

Coffee Warrant

28. (1) A broker shall, after every sale of coffee, issue to the purchaser a coffee warrant in such form, and containing such details of the coffee purchased, as the Authority may prescribe.

(2) No person shall alter any certificate of origin, certificate of inspection or certificate of re-export, coffee warrant, warehouse receipt or other document prepared for the purposes of these regulations.

Exemption.

29. (1) Nothing in these regulations shall apply to the export or dispatch of any coffee when the coffee concerned—

(a) consists only of a sample or a parcel not exceeding 20 kg in weight; or

(b) is for consumption on ships, aero planes or other international carriers.

(2) There shall be post-auction trade of green coffee to facilitate inter-trader dealings, local roasting and domestic coffee consumption.

Activities of the Authority.

30. The Authority shall carry out activities to fulfill the following purposes—

(a) advertising the merits of Kenya coffee and increasing its sale to expand existing markets and entering new markets and matters incidental thereto;

(b) promotion exhibitions and trade fairs for the display of the Kenya coffee in the domestic and international markets;

(c) collection and dissemination of statistics and other information relating to Kenya coffee and its production, distribution and consumption;

(d) regulation and compliance activities;

(e) promotion of product diversification and value addition;

(f) remuneration, pension, gratuities, allowances of members of the staff and technical advisers of the Authority, staff and Board of Directors of the Authority; or

(g) any other lawful purpose for the development of the coffee sub-sector.

PART VI—QUALITY ASSURANCE

Quality Assurance for Coffee Industry.

31. (1) The Authority shall establish and enforce standards in grading, sampling and inspections, tests and analysis, specifications, units of measurement, code of practice and packaging, preservation, conservation and environmental sustainability and transportation of coffee.

(2) The Authority shall develop a training curriculum and conduct examinations for coffee liquorers in consultation with industry stakeholders.

(3) Any qualified person intending to offer liquoring services shall apply to the Authority for certification.

(4) Liquoring certificates shall be issued by the Authority to persons who pass the liquoring examinations in accordance with these regulations.

(5) The Authority shall develop guidelines for the establishment of independent cupping centers at the counties for the purpose of coffee quality analysis and maintenance.

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

(7) Quality Assurance officers from the Authority may whenever the need arises, carry out assessments on coffee quality maintenance at any premises that handles coffee, along all stages of the value chain.

(8) The Authority shall demand evidence of engagement of a registered coffee liquorer by a miller or broker licensed under these regulations.

Appointment of inspectors.

32. (1) The Authority may appoint inspectors to conduct independent inspection of a grower's farm, warehouse or the premises of a coffee broker or trader to ascertain whether the requirements of the Act and these regulations are being complied with.

(2) In carrying out an inspection under sub regulation (1) the inspectors shall—

(a) monitor activities along the value chain of coffee to ensure compliance with set regulations and standards;

(b) undertake inspections to ensure conformity to these regulations;

(c) ensure that all people dealing with coffee adhere to the and conditions of registration andlicensing set out in the Second Schedule.

(3) An inspector shall work in collaboration with the executive committee of the respective county in the discharge of functions under this regulation.

(4) A grower, miller, warehouseman, broker or trader shall afford the inspector full and free access and all necessary assistance to any such inspector during the inspection.

(5) No coffee grower, miller, marketing agent, trader, or warehouseman or their agents shall deny entry to an inspector acting in the course of that inspector's duty or obstruct an inspector from making an entry or conducting an inspection of a mill or other premises.

Prohibition against removal of labels, seals, etc.

33. No agent or person employed by an agent shall, otherwise than with express written authority of a grower, remove labels or seals or open technically sewn or closed packets of coffee unless for the purpose of inspection to determine their validity and genuineness or with other reasonable cause.

Surveillance.

34. The Authority shall conduct periodical surveillance within coffee- growing counties and among millers, brokers, processing plants, warehousing facilities, retail outlets, export points, and exporters' premises to assess the degree of compliance with the coffee industry policy, standards, code of practice and the general well being of the coffee industry.

PART VII—GENERAL PROVISIONS

Arbitration.

35. (1) Where any dispute arises between any two or more persons licensed or registered under these regulations, the disputing parties may be resolved in accordance with the provisions of the Nairobi Centre for International Arbitration Act, 2013.

No. 26 of 2013.

General penalty

36. (1) A person who contravenes any provisions of these regulations commits an offence.

(2) A person who commits an offence under these Rules for which no other penalty is provided shall be liable to a fine not exceeding five hundred thousand shillings or to a term of imprisonment not exceeding one year or both.

Revocation.

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

Transitional.

38. Notwithstanding regulation 37-

(a) all licenses for coffee business existing before the coming into operation of these regulations shall remain valid until their expiry, and shall thereafter be renewed under these regulations.

(c) any person who immediately before the coming into operation of these regulations was an agent for a grower shall upon such operationalization apply to the Capital Market Authority for licensing as a broker under these regulations.

FIRST SCHEDULE (R---)

Form A1

APPLICATION FOR REGISTRATION OF A COFFEE NURSERY

(1) Personal Information

Name of Applicant (new /renewal): ....

(Attach National ID)

Sub county: ………………………Location ....

Location…………………………Division ....

Land Registration No/Plot No ....

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

Contact Details:

Postal Address ....

Email ....

Telephone: ....

(2) Nursery Information

Where the applicant is a company or co-operative society, supply the County with:

(a) A certified copy of certificate of incorporation/registration;

(b) A certified copy of memorandum and articles of association/ constitution/by laws;

(c) Names and address of Directors.

i. ……………………..…………

ii. …………………………..………

iii. ……………………..……………

iv. ……………………..……………

(3) Nursery Category (tick as appropriate)

(a) Commercial ☐ (b) Private ☐

CONDITIONS:

The registration requirements shall be as per the fourth schedule of these forms.

Date:……………………………………Signed: …………………………..

(4) (a) County Inspector Comments

…………………………………………………………………………
…………………………………………………………………………
…………………………………………………………………………
…………………………………………………………………………
…………………………………..…………………………………

(b) AFFA County Officer Comments:

…………………………………………………………………………
…………………………………………………………………………
…………………………………………………………………………
…………………………………………………………………………
…………………………………………………………………………

5. Nursery Certificate Approval

FOR OFFICIAL USE

Approved/Not Approved……………………………………………………

The County Executive Member in Charge of Agriculture

Signature…………………………………….Date……………………

Stamp:

(*To be filled in duplicate and copy sent to AFFA*)

FIRST SCHEDULE

Form A2

NURSERY REGISTRATION CERTIFICATE

Valid from ……………………….….to…………………………

Name of Certificate holder: ………………….………..………..……

Postal Address …………………………………………………………..

Email……………………………………………………………………..

Telephone: ……………………..............................……………

Location: …….…………Sub-location………………..…………………

Village/Road……………………Division:…… …………..…………

County…………………………………………………………….....…

L.R. No. or Plot No: ……………………………....……………..

Nursery Code: ………………………………………...…

Nursery Category (tick as appropriate)

Commercial (a) ☐ (b) Private ☐

Is hereby registered to operate coffee nursery on the above L.R. No/Plot no. in the above (county)

Terms and conditions

1. Nursery operators shall maintain records of source of seed, amount of allocated seed, seedlings raised and seedlings bought.
2. Nursery operators shall remit returns to the County on a quarterly basis
3. The source of seed shall be only the Coffee Research Institute or its authorized agents.

OFFICIAL USE
Approved/Not Approved…………………………………….
The County Executive Member in Charge of Agriculture
Signature……………….………Date…………….……………..………
Stamp:

(*To be filled in duplicate and copy sent to AFFA*)

FIRST SCHEDULE

Form A3

COFFEE NURSERIES RETURNS

1. Name of Nursery /Owner: ……………………………….………
2. Address: Postal …….………Postal Code.........………….….
   Email…………………………….........................…….
3. Telephone: …………………………………………………
4. Location: ………Sub location…………..……Village/Road…………
   Division: …………………County…………………………
5. L.R. No. or Plot No: ……………………….………………..
6. Nursery Code……………………………………………
7. Period of returns from……………..to…………………………..…
8. Source of planting materials (seed /seedlings/ cuttings)……………

SEEDLING STOCK

Variety	*Balance B/f from previous quarter:*	*Amount of planting material allocated*	*No. of seedlings raised*	*Total seedlings available*
Ruiru 11				
Batian				
Traditional (Specify)				
Others				
Total				

Seedlings Sales

No.	Date	Name of Buyer	ID No	Receipt No. Issued	No of Seedlings Sold				Total
					Ruiru II	Batian	Traditional	Others	
1									
2									

3									
4									
5									
		Total							

Prepared by:

Name:…………………… ……Designation:…………………

Signature:…………………Date:………………………

Stamp:…………………….……… ………………..

(*To be filled in duplicate and copy sent to AFFA*)

Form B1

APPLICATION FOR PULPING STATION LICENSE

1. Name of Applicant: …………………… (Individual/organization)

2. Postal Address:………………… …Postal Code……...……………..

E-mail………………………………Telephone:………………………

3. Location…………..…..…Sub-Location:……… ………..…..

   Village/Road…………………………………………………...………

   County:……………… ……………………………………..

   Proposed Name of farm (where applicable): …………………………

4. L.R. No ……………………………………………………..

   (Attach copy Title Deed/Lease Agreement/Other supporting document).

5. Registration Certificate of a co-operative: society/Company…………

6. (Attach certified Copy)Application is made for permission to erect/operate a factory for the pulping of coffee in accordance with the particulars given above, which are hereby certified to be correct by the applicant(s): -

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

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

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

7. Land under mature coffee……No of Trees……………variety……….

8. Production for immediate past three years

Year	Production (kg)

9. Source of water…………………………………………………......

   [Attach Clearance by water department, where applicable]

10. County Inspector Comments:

………………………………………………………………………………
………………………………………………………………………………
………………………………………………………………………………
………………………………………………………………………………
…………………………………………………

(b) AFFA County Officer Comments:

………………………………………………………………………………
………………………………………………………………………………
………………………………………………………………………………
…………………………………………………

OFFICIAL USE

Approved/Not Approved ……………………….…………

The County Executive Member in Charge of Agriculture

Signature……..……..………Date…………………….…………

Stamp:

(*To be filled in duplicate and copy sent to AFFA*)

Form B2

PULPING STATION LICENSE

Valid from ……………………….To………………………….

1. Name…………………………..….Grower's Code ………..........………
2. Contacts:

   Postal Address…………………………………………….

   E-mail……………………….……….....………..…

   Telephone: ……………………………...…...………..…
3. Location:

   Sub County: Division: ………………………………………………..

   Location: …………………Sub location: …………………………

   Village/Road:…… …………………………………………………

Proposed Name of farm (where applicable): …………………...………..…

Is/are hereby authorized to operate a factory for the pulping of cherry

OFFICIAL USE
Approved/Not Approved……………………………………..…….
The County Executive Member in Charge of Agriculture
Signature……………………… Date……………………….……
Stamp:

Subject to the terms and conditions:

1. This license shall be only for pulping own coffee
2. The County may cancel, vary or suspend the license issued to any person if such person fails to comply with terms and conditions of the license.
3. The pulping stations shall submit their pulping returns to the County on bi-annual basis
4. A pulping license may be suspended where the licensee, without any good reason acceptable to the County, continues to default in submitting returns.

(*To be issued in duplicate and copy sent to AFFA*)

AGRICULTURE FISHERIES AND FOOD AUTHORITY

FORM C1 **APPLICATION FOR COFFEE MILLING LICENSE**

Tick as appropriate:

Grower-miller;

Commercial-miller

1. Name of applicant (new/renewal-delete as appropriate)

   .…………………… ……………………………………
2. Postal Address: ……………… Postal Code ………………..
3. Email…………………Telephone number………………
4. Location……………Sub location ……………village/road………
5. Division…………County …………………………….…
6. L.R. No. / Plot No..……………… …………………..……
7. Milling capacity:-
   a) Parchment…………………………tonnes per hour
   b) Buni………………………………tonnes per hour
8. License category (tick as appropriate)—

   Estate ☐ Co-operative Society ☐

   Other ☐

   Application is here made for authority to erect/operate a coffee milling plant; particulars given are hereby certified to be correct:
9. Catchment Area: ………………………………………

   Applicant Signature……………….…..…………………

   Date ……………………………………………..

AGRICULTURE FISHERIES AND FOOD AUTHORITY

FORM C2 **MILLING LICENSE**

Tick as applicable:

Grower-miller;

Commercial miller.

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

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

Name …………………………………………...………………………

Address: postal...…………… …Postal Code……………………

Email …………………….Telephone number…………..…………….

Location…………Sub location …………………village/road……………

Division………County ……………………………….…………

L.R.No./Plot………..…………Location…………………………..

Is/are hereby authorized to (a) erect/operate a coffee milling plant at ……………………… L.R. No. /Plot No..….. ………………………

(b) to **pulp and mill** coffee;

(c) to market and **roast** coffee.

Signature………............. Date ……………………………....

Agriculture, Fisheries and Food Authority

Subject to Terms and Conditions overleaf:

1. The Authority may vary, suspend or cancel the milling license issued if the holder fails to abide with the terms and conditions of the license.
2. The millers shall submit their milling returns to the Authority on a monthly basis.
3. A milling license may be suspended where a licensee, without any good reason acceptable to the Authority, continues to default in submitting returns.

(*To be filled in duplicate and copy sent to respective County Governments*)

AGRICULTURE FISHERIES AND FOOD AUTHORITY

FORM C3

MONTHLY MILLERS RETURNS

Category (Commercial/Grower Mill) ………………………

Miller’s Name………………………………………

Authority’s Code…………………..……License No………………….….

P.O Box……………….Physical Address………………………..…

Telephone………………….Email……………………………..……

Crop year ………………..……… Month……………………….……..

GROWER	CBK Code	Out/Turn	Parchment (Kg)				CLEAN COFFEE											Buni			
			P1	P2	P3	T/P	AA	AB	PB	E	C	TT	T	SB	UG	Total cc	Milling loss	MH	ML	Total Clean *Buni*	Milling Loss
Total																					

Monthly Sweepings in Kg…………………….................…………….

Milling Charges per Tonne …………………………..................

Transport charges ……………………………………………..…

Colour Sorting per Tonne …………………………………….…….

Handling charges per bag…………………………………

Other charges (Specify)…………………… …………………

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

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

Stamp

AGRICULTURE FISHERIES AND FOOD AUTHORITY

FORM D1

APPLICATION FOR A COFFEE TRADER'S LICENSE

1. Name of Applicant (Grower/Commercial) (new/renewal-delete as appropriate)

   …………………………………………………

2. Address …………………Postal Code…………………………..
3. Registered address …………… Building………………………...

   Street……………………………………………………

   Town/City………… L.R. No. …………………………
4. Date of Incorporation……………………………..
5. Registration No…………………………………
6. Name of Company ……………………………….....
7. Physical Address ………………………….……
8. Location of the principal office…………………….

   Address……………………………………………..…

   Telephone ………………………………..…

   Fax…………………………………………………….

   E-mail…………………………………………………....
9. Details of the capital structure

   (d) Nominal capital KSh. …………………………….

   (e) Paid up capital KSh. ……………………………………..
10. Full names, addresses and occupations of the directors:

	Name:	*Address:*	*Occupation:*
1.	------------------	------------------	---------------
2.	------------------	------------------	---------------
3.	------------------	------------------	---------------
4.	------------------	------------------	--------------

11. Branch Office(s) if any

    Address:……………..………

    Building …...............………… Street ……….........………………

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

Telephone ………………………………………………

Fax……………………………………………………………

E-mail……………………………………………………

12. Name, Address and Telephone of the Chief Executive:

Name: …………………………………………......……..

Physical Address ……………………….....……….

Telephone: ……………………..……………

Postal Address:………… ……..…………….

Professional Qualifications:……………… …………..

Experience:…………… ……………..………………

13. I/We certify that we have read and understood the Coffee, (**General)** 2013 Regulations **currently in force** and I/We also understand that the license and registration certificate granted on this application may be cancelled and penalties and punishment may be imposed on each of us if any document or statement submitted by us in the course of this application is false or materially misleading.

Date……………………….........……………

Name of Director………………… Signature ……………….

Name of Director……………………… Signature …………….

Name of Secretary ………..Signature ……………….

14. Additional registration requirements shall be as per the fourth schedule of these forms.

(*To be filled in duplicate and copy sent to respective County Governments)*

AGRICULTURE FISHERIES AND FOOD AUTHORITY

FORM D2 **COFFEE TRADER LICENSE**

License No. …………......... Authority's Code……........................…
Valid from.......................…to………...........................…....………….
Name ………………………………………………
Address: postal..………… …Postal Code………………………………
Email ……………………….Telephone number…………..…………….
Location…………Sub location …………village/road…………..……
Division………....…County ……………………………
L.R.No./Plot………………..…Location…………………………..

AGRICULTURE FISHERIES AND FOOD AUTHORITY

FORM E1

APPLICATION FOR A COFFEE ROASTER'S LICENSE

1. Name of Applicant
    a. ……………………………………………………
2. Address …………………Postal Code………………………….
3. Registered address ………………… Building…………...
    a. Street……………………………………………………
    b. Town/City…………. L.R. No. ………………..…….
4. Date of Incorporation (fill 4-10 if applicable, if not write N/A)
5. Registration No…………………………………………
6. Name of Company ……………………………………….....
7. Physical Address …………….............………..……
8. Location of the principal office………………….
    a. Address……………………………………………..…
    b. Telephone ………………………………………..…
    c. Fax……………………………………………….

d. E-mail…………………………………………………....

9. Details of the capital structure

   a. Nominal capital KSh. …………………………….

   b. Paid up capital KSh. ………………………..

10. Full names, addresses and occupations of the directors:

i.	*Name:*		*Address:*	*Occupation:*
b.	1.	------------------	------------------	---------------
c.	2.	------------------	------------------	---------------
d.	3.	------------------	------------------	---------------
e.	4.	------------------	------------------	--------------

11. Branch Office(s) if any

   a. Address:………..………

   b. Building ………...………… Street ………..........…

   c. Town/City………… L.R. No. ……………………………

   d. Telephone ………………………………………………

   e. Fax………………………………………………………

   f. E-mail…………………………………………………

12. Name, Address and Telephone of the owner/Chief Executive:

   a. Name: ……………………………………......……..

   b. Physical Address ………………………......……….

   c. Telephone: …………………………..……………

   d. Postal Address:… …………………..…………….

   e. Professional Qualifications:…… …………..…………..

   f. Experience:……… ……………………..………………

13. I/We certify that we have read and understood the Coffee, (**General)** 2013 Regulations **currently in force** and I/We also understand that the license and registration certificate granted on this application may be cancelled and penalties and punishment may be imposed on each of us if any document or statement submitted by us in the course of this application is false or materially misleading.

a. Date…………………………………...........……………
b. Name of Director……… Signature ………………
c. Name of Director……………… Signature ………………
d. Name of Secretary ………..Signature ……………

14. Additional registration requirements shall be as per the fourth schedule of these forms.

(*To be filled in duplicate and copy sent to respective County Governments)*

AGRICULTURE FISHERIES AND FOOD AUTHORITY

FORM E2

COFFEE ROASTER LICENSE

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

Valid from...…to………............

Name …………………………………………………………

Address: postal...……… ……Postal Code………………………………

E-mail ……………….Telephone number…………..…………….

Location………………..……Sub location ………village/road………..…

Division………County ……………………………

L.R.No./Plot…………………Location…………………………

AGRICULTURE FISHERIES AND FOOD AUTHORITY

FORM F1

APPLICATION FOR A WAREHOUSEMAN'S LICENSE

1. Name of Applicant (new/renewal-delete as appropriate)………......
2. Postal Address………………Postal Code……......………….……
3. Registered Office………… Building…………….……Street………

   Town/ City……………… L.R. No……………………
4. Date of Incorporation……………………..................
5. Registration No……………………………………
6. Name of Company…………………………........

7. Physical Address……………..……………………
8. Location of the Principal Office…………………
   Address………...........………………………………
   Telephone……………...............………………………
   Fax……………..............……...…………………
   E-mail………..................………………………
9. Details of the Capital Structure:
   (i) Nominal Capital KSh. ……......……………………
   (ii) Paid Up Capital KSh. ……….............………………
10. Full Names, Address and Occupations of the Directors:

Name		*Address*	*Occupation*
1.	………………	…………….	………….
2.	…………	……….	………..........
3.	………………	………	……

11. Branch Office (s) if any
    Address:………… ……….................……………………
    Building………….......……. Street……………………………
    Town/ City………… L. R. No…………………………
    Tel:.......................Fax:………………………………
    E-mail:…………………………………………
12. I/ We hereby apply for a license as a Coffee Warehouseman and to carry on a business of Coffee Warehouseman
    Date:……………….............……………………
    Name of Director…………Signature…………………
    Name of Director…………Signature……………………………
    Name of Secretary……………….. Signature……………………
13. I/ We certify that we have read and understood the Coffee (**General) Regulations currently in force** and understand that the license granted on this application may be cancelled and penalties and punishment may be imposed on each of us if any document or statement submitted by us in the course of this application is false

or materially misleading. I/ We also certify that the information given above is correct.

Date: ………………………………………………

Name of Director……………Signature…………………

Name of Director……….Signature…………………………

Name of Secretary……………….. Signature……………

14. The additional registration requirements shall be as per the fourth schedule of this forms

AGRICULTURE FISHERIES AND FOOD AUTHORITY

FORM f2

WAREHOUSEMAN'S LICENSE

Authority's Code: ……………………………

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

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

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

THIS LICENSE is not transferable.

ISSUED at Nairobi this …………day of ……………..20……..

Signed………………………………………………

Agriculture Fisheries and Food Authority

Subject to terms and conditions set out hereunder:

1. A warehouseman shall not engage in any business that is contrary to the provisions of the Coffee Regulations
2. Shall maintain a record of all transactions undertaken and avail them to an authorized officer of the Authority or any other appointed authority upon request.

SECOND SCHEDULE **(R.11(1))**

Requirements and Fees

A—Licensing Requirements

(a) Nursery Certificate

1. Individual National ID/Passport No and PIN
2. Suitable land site for establishment of a nursery
3. Reliable source of clean water
4. Accessibility of nursery site for inspection and materials transportation
5. Phytosanitary certificate of clearance by KEPHIS
6. Any other requirements that may be prescribed by the Authority from time to time

In addition, where the applicant is a company/society

7. A certified copy of certificate of incorporation/registration (in the case of companies or societies
8. A certified copy of memorandum and articles of association;
9. Names of directors/officials

(b) A Pulping station

1. Applicants personal details and contacts
2. Individual National ID/Passport No. and PIN
3. Copy of title deed or certificate of leasehold of a duration of lease of not less than six years as proof of ownership *or* proprietorship and a current certificate of search

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

(c) Grower Miller's License

1. Applicant's personal details and contacts
2. Individual's National ID No.
3. Where the applicant is a corporation, a certified copy of certificate of incorporation
4. A certified copy of memorandum and articles of association
5. A paid up share capital of not less than KSh. 300,000/=

6. Names of company directors, individual National ID/ Passport No and Pin Numbers

7. Tax compliance certificate from Kenya Revenue Authority (KRA) for the Company

8. Compliance with Statutory requirements, including but not limited to, NEMA certificate Safety and Occupational Health Certificate and CountyBusiness Permit

9. A certified copy of a comprehensive insurance cover from a reputable firm proportionate to volume of coffee handled as per insurance valuation

10. Proof of engaging services of a coffee liquorer registered by the Authority

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

(d) A commercial coffee miller's license

Same requirements as grower/miller's license.

In addition, the holder shall take out insurance cover for goods, theft by servant and other appropriate cover.

(e) Coffee Broker's License 1. A certified copy of certificate of incorporation

2. A certified copy of memorandum and articles of association

3. A paid up share capital of not less than KSh. 300,000/=

4. Names of company directors, individual National ID/ Passport No, Pin Numbers

This license will be issued by the Capital Markets Authority.

(f) Roaster's License

1. Applicant's personal details and contacts.
2. Individual National ID/Passport No.
3. If applicant is a company—

(a) A certified copy of certificate of incorporation

(b) A certified copy of memorandum and articles of association

(c) A paid up share capital of not less than KSh. 100,000/=

(d) Names of company directors, individual National ID/Passport No, Pin Numbers

4. Tax compliance certificate from Kenya Revenue Authority (KRA) for the Company

5. Compliance with Statutory requirements, including but not limited to, NEMA certificate (where applicable) Safety and Occupational Health Certificate (where applicable) and Business Permit

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

(h) Warehouse License

1. A certified copy of certificate of incorporation

2. A certified copy of memorandum and articles of association

3. A paid up share capital of not less than KSh. 300,000/=

4. Names of company directors, individual National ID/ Passport No, Pin Numbers

5. Names and addresses of two business referees

7. Names of company directors, individual National ID, Passport No. Pin Numbers

8. Tax compliance certificate from Kenya Revenue Authority (KRA) for the Company

9. Clearance Certificate by respective county governments

10. Compliance with Statutory requirements, including but not limited to, NEMA certificate Safety and Occupational Health Certificate and Local Authority Business Permit.

11. A certified copy of a comprehensive insurance cover from a reputable firm proportionate to volume of coffee handled as per insurance valuation

12. Compliance with minimum specifications as required by Kenya Bureau of Standards.

13. Undertaking to furnish the Authority with monthly stock returns

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

B—Certificate and *License* Fees

The following license fees shall apply for the respective certificates and licenses:-

Category	AFFA Amount(KSh.)/US$
Application Forms	KSh. 1,000
Registration Certificate	KSh. ----
Nursery Certificate	KSh. **1,000**
Pulping Station license	KSh. 1,000
Grower's milling Marketing license	KSh. 20,000
Commercial Coffee Millers license	US$ 1,000
Broker's license	US$ 1,000
Roaster's License	KSh. 7,500
Coffee Commercial Warehouse License	**US$ 1,000**
Mobile Huller	KSh. 10,000

NB The fees specified herein shall be paid to the Authority and shared with the County governments in accordance with agreements negotiated by the two levels.

THIRD SCHEDULE

OBLIGATION OF LICENSEES (R.14)

Pulper's obligations

The following are the operating standards and obligations which shall be implied in every contract between the grower and the pulping station as principal and agent respectively:

1. There is a service contract between the parties.
2. The cost of the service shall **not exceed 15% of the net earnings from the coffee sales and the same shall be stated in the agreement at the beginning of each year and the amount shall be paid by the growers upon receipt of payment for the coffee.**
3. The licensee shall perform sorting and density grading of cherry immediately upon receipt.
4. The licensee shall correctly weigh the grower's cherry using a credible weighing system, maintain an accurate record of the same and give an original receipt thereof to the grower immediately.
5. The licensee shall diligently and carefully carry out the process of removal of coffee pulp from the cherry, fermentation, washing and drying to the desired moisture content without delay and maintain the highest possible value of the coffee.
6. The, licensee shall, if it has not done so, buy computers, digitize its coffee weighing scales and post the information of quantity and quality to a central database made accessible to the grower.
7. In parchment handling, the licensee shall do quality analysis of the dry parchment prior to storage and will mix only parchment that is of similar quality.
8. The licensee shall digitize stock cards.
9. The licensee shall insure the coffee against loss and damage while at the station and in transit.
10. The licensee shall reinforce the security of the station to guard against theft of coffee by its servants or other persons and where security of the parchment cannot reasonably be guaranteed, it shall transport the same to a safer location.
11. Before moving the coffee, the licensee shall apply for a movement permit for the coffee from the relevant authority and install a tracking device for the vehicle ferrying the coffee.

12. The licensee shall have the permits for the movement of coffee duly endorsed by the miller to acknowledge receipt of the parchment clearly indicating quantity and quality and shall file proper returns for the same which shall periodically be availed to auditors for verification.
13. In cases where the licensee is a co-operative society, its executive officials shall not borrow funds on behalf of the grower, but if expressly approved and passed at the Annual General Meeting of the members of which the grower is one, borrowing may be done but only to cover the operational budget.
14. The licensee shall have no authority to receive the grower's money after sale of the coffee and payment shall be done directly to the grower from the Central Depository Unit or other agent appointed by the grower for that purpose, and the licensee shall receipt its agreed fees from the same unit or agent.

Millers' Obligations

The cooperative society or other entity delivers parchment coffee or buni at a mill for further processing at a fee and grants the miller the authority to mill and deliver the coffee to a warehouse accredited by the Exchange, and expressly stated in the contract to be the warehouse for the grower's coffee. The following are the agreed operating standards and obligations which shall be implied in every contract between the grower and the miller as principal and agent respectively-

1. There shall bea service contract between the parties.
2. The cost of the service shall be agreed in terms of Kenya Shillings for every kilogram of processed parchment or *buni* at the beginning of each year and the same shall be paid by the grower upon sale of the coffee.
3. The miller shall publish the tariffs that are approved by the regulator and shall not charge the grower more that the approved amounts.
4. The miller shall be accountable to the grower for the coffee received and shall acknowledge receipt of the same from the grower or his authorized agent by endorsing the movement permit, confirming whether the volume, the grading and the owner of the coffee is as indicated in the permit and by issuing an identifying outturn number for the coffee so delivered.
5. The miller shall issue a goods received note (GRN) to the grower or his authorized agent and transmit data of the same to a central database operated and maintained by the regulator.

6. The miller shall take **the agreed** sample of the parchment **and distribute it between the grower and the regulator and retain a portion thereof.**
7. The miller shall, if it has not done so, digitize its weighing scales and its grading equipment to ensure precision and protect against loss of coffee volume.
8. In the event of bulking, the miller shall indicate the minimum millable lot in the contract, inform the grower and receive the grower's consent to bulk his coffee with the coffee of others, file a log and share with the owners of the coffees being bulked, stating their names, volume, and quantities of the batches being bulked and provide each person in the bulk a copy of the sales receipt indicating the distribution of the value of the same upon sale.
9. The miller shall give a milling losses and sweepings statement declaration stating the range of expected milling loss for every parchment type and *buni* as approved by the regulator, provide a target milling loss per delivery on analysis of the sample and grant the grower the right of advance adequate notification of the time and date of the milling of the grower's coffee to enable the grower to attend the milling.
10. The miller shall share all milling statements with the Authority.
11. The miller shall insure the coffee against loss and damage during milling and storage including insurance against theft by servant, install CCTV, keep the CCTV files for the entire season and adhere to the security guidelines that may be set by the Authority.
12. The miller shall not in any event lend money or make any advances to the grower.
13. The miller's liquorers shall take out and maintain professional indemnity insurance covers.
14. The miller shall file copies of the movement permit returns duly endorsed by the accredited warehouseman, upon delivery of the milled coffee to the warehouse.
15. The miller shall provide copies of warehouse receipts to the grower and ensure that auditors have verified that movement permits were endorsed by the licensed warehouseman.

Collateral Manager's Obligations

A grower or his authorized representative deposits the coffee in a licensed or accredited warehouse and the warehouseman takes custody of the coffee. The following are the agreed operating standards and obligations which shall be implied in every contract between the grower and the warehouseman as principal and agent respectively-

1. There is a service contract between the parties.
2. The cost of the service shall be agreed in terms Kenya Shillings per Kilogram of the coffee stored at the warehouse at the beginning of each year and the same shall be paid by the grower upon sale of the coffee.
3. The warehouseman shall upon delivery of the coffee be accountable to the grower for the coffee received and shall acknowledge receipt of the same from the grower or his authorized representative by endorsing the movement permit, confirming whether the volume, the grading and the owner of the coffee is as indicated in the permit and by confirming the outturn number for the coffee so delivered.
4. The warehouseman shall issue warehouse receipt for the coffee so received in the name of the grower or his authorized representative.
5. The warehouseman shall issue a goods received note (GRN) and transmit data of the same to a central database operated and maintained by the regulator.
6. The warehouseman shall publish tariffs that will be approved by the Exchange operator and filed with the Authority. The warehouseman shall take a sample of the grower's coffee for grading and distribution between the warehouseman, the Authority, the exchange and the grower.
7. The warehouseman shall not allow the grower's coffee to be sold without the knowledge and consent of the grower and will not allow the grower's representatives to borrow funds against the growers' coffee.
8. The warehouseman shall, if it has not done so, digitize its weighing scales and its grading equipment, and it shall weigh and count all the bags of coffee delivered to ensure precision and protect against loss of coffee volume.
9. The warehouseman shall not allow sweepings beyond the maximum stipulated by the Authority, and the warehouseman shall ensure that the value of any sweepings from the warehouse is divided on pro rata basis between the growers whose coffee is at the warehouse at the material time.

10. The warehouseman shall not bulk the growers' coffee with any other coffee.

11. The warehouseman shall insure the coffee against loss and damage while in the warehouse storage including insurance against theft by servant, install CCTV, keep the CCTV files for the entire season and adhere to the security guidelines that may be set by the Authority.

FOURTH SCHEDULE - A

Kenya Standards

STANDARD COFFEE GRADES (R.18(6))

Grade	General Description	Screen number on which beans are retained. (Size as per KSOS-174 or 150415-1980)
E	Elephant – two beans joined together, a genetic defect and includes very large (bold) AA	Retained on 21 (size diameter 8.3 mm)
PB	Pea berries – one ovule develops in Coffee of the usual two	Through 17 retained on 12 (4.76 mm)
AA	Flat beans	Through 21 retained on 18 (7.2 mm)
AB	Flat beans	Through 18 retained on 16 (6.35 mm)
C	Small flat beans	Through 16 retained on 10 (3.96mm)
TT	Light density beans, from AA, AB and E grades by air extraction	
T	Smallest, consists of broken and small C	Through screen No. (2.9 mm)

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

FOURTH SCHEDUCE - B -

Specialty Coffee Grading Standards

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

FOURTH SCHEDULE – C

Certifications

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

FIFTH SCHEDULE

SALES CATALOGUE (R.23(2)

1. The sales catalogue shall be prepared by the Miller in consultation with the growers and forwarded to the auctioneer at the Exchange.

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

(a) The name of the grower/miller;

(b) Sale Number;

(c) Day, date and time of the auction;

(d) The place of the auction shall be Nairobi Coffee Exchange, Nairobi;

(e) Total number of bags of coffee to be offered for sale;

(f) Name of the warehouse where the coffee is stored;

(g) The prompt date being the date on or before which proceeds are payable to the central depository unit of the Exchange;

(h) Terms and conditions of sale

(i) The date on which rent charges in respect of purchased coffee shall be due from the buyers to warehousemen at which the coffee is stored;

(j) The net weights as per warehouse weights (and unless otherwise stated coffee shall be packed in bags of 60 kg net, tare weight 1.1 Kgs but bids shall be on the basis of 50 Kgs), the bags used shall conform to the international coffee packaging standards.

(k) Lot numbers arranged serially per miller for all coffee offered for sale;

(l) The out-turn Number shown against each lot number and the registered distinguishing mark of the grower miller (whether Bulk, E/Bulk, P/Bulk, T/Bulk; Spillage, or sweepings) and out-turn Number arising from operations of grower/miller;

(m) Grade of the coffee (AA, AB, PB, E, C, T, TT, UG, HE, SB, ML or MH)

(n) Number of bags in the lot (a saleable lot shall not have be less than ten bags)

(o) Net weight of coffee in kilograms respectively

(p) Adequate space for inserting big prices by Traders.

3. The sales catalogue shall be prepared weekly or as frequently as the Authority may determine in consultation with marketing agents.

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

Dated this ……………. Day of ………………….2016.

WILLY BETT,
Cabinet Secretary,
Ministry of Agriculture, Fisheries and Livestock.

Members of The National Task Force on Coffee Sub-Sector Reforms visit at Othaya Farmers Cooperative Society Limited