THE NATIONAL ASSEMBLY
PAPERS LAID

DATE: 04 OCT 2022 DAY: Tuesday

TABLED BY: Deputy Speaker. Hon. Boss Shollei

CLERK AT THE-TABLE: H. Stillmary

URGENT

REPUBLIC OF KENYA

MINISTRY OF AGRICULTURE, LIVESTOCK, FISHERIES AND COOPERATIVES
OFFICE OF THE CABINET SECRETARY

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Ref. No. MOALF/CS/ADM/43

KILIMO HOUSE
CATHEDRAL ROAD
P.O. Box 30028-00100
NAIROBI
9th June, 2022

Mr. Michael Sialai, EBS,
Clerk of the National Assembly,
Parliament Buildings,
NAIROBI

Head Table Office
To register and acknowledge receipt, and consider tabling at the next sitting of the House.
13/6/22

Dear *Clerk,*

RE: THE CROPS (MIRAA) REGULATIONS 2022, AND THE CROPS (COFFEE)(GENERAL)(AMENDMENT) REGULATIONS 2022

The above subject matter refers.

Following the enactment of the Crops Act 2013, the Ministry of Agriculture, Livestock, Fisheries and Co-operatives recently reviewed the **Crops (Coffee) (General) Regulations and the Crops (Miraa) Regulations, 2022** for both the Coffee and Miraa sub-sectors respectively.

In line with the provisions of the Statutory Instruments Act, please find attached the above set of Regulations, Gazette Notices, together with the requisite statutory documents for consideration by the National Assembly Committee on Delegated Legislation.

a. Explanatory Memorandums on the above General Regulations, 2022
b. The Public Participation Reports
c. The attendance lists on Public Participation
d. Regulatory Impact Assessments (RIAs) on these Regulations
e. Kenya Gazette Notice Special Issue **Supplement No. 97 dated 9th June 2022, Legal Notice No. 101 (Miraa) and Legal Notice No. 102** (Coffee) respectively; and
f. Duly signed Certificate of Compliance

Yours *Sincerely,*

Hon. Peter Munya, EGH
CABINET SECRETARY

NATIONAL ASSEMBLY
RECEIVED
13 JUN 2022
CLERK'S OFFICE
P.O. Box 41842, NAIROBI

Copy to: -

Mr. Jeremiah M. Nyegenye
Clerk of the Senate,
Parliament Buildings,
NAIROBI

THE NATIONAL ASSEMBLY
PAPERS LAID
DATE: 04 OCT 2022 DAY: Tuesday
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CLERK-AT-THE-TABLE: H. Suleiman

EXPLANATORY MEMORANDUM

SCHEDULE

[Section 8]

EXPLANATORY MEMORANDUM

TO

THE CROPS (COFFEE)(GENERAL)(AMENDMENT) REGULATIONS

[2022]

PART I

Name of the Statutory Instrument:	The Crops (Coffee)(General)(Amendment) Regulations, 2022
Name of the Parent Act:	Crops Act
Enacted Pursuant to:	Section 40 of the Crops Act No. 16 of 2013
Name of the Ministry/Department:	Ministry of Agriculture, Livestock, Fisheries and Cooperatives
Gazetted on:	
Tabled on:	

PART II

1. Purpose of the Statutory Instrument

The proposed regulations seek to amend the provisions of the Crops (Coffee)(General) Regulations 2019 and enhance the regulation of the coffee subsector in Kenya. Specifically, the purpose and object of the regulations include to;

i. Give effect to section 40 of the Crops Act, 2013;
ii. Provide for licences to be issued by the licensing authorities;
iii. Provide for the obligations of licence holders and service providers, and the protection and regulation of their interests along the value chain;
iv. Recognize the grower of coffee as the owner of coffee until the coffee is sold and paid for;
v. Provide for the protection of growers' rights along the value chain;
vi. Provide for a transparent and timely clearing and settlement of coffee sales proceeds to the growers and service providers;
vii. Provide for the collection and maintenance of data related to coffee;
viii. Ensure improvement of coffee standards, increased production and support; and
ix. Regulate the coffee industry in Kenya.

2. Legislative Context

Coffee was first planted in Kenya at Bura in the Taita Hills in 1893 before spreading out to the central Eastern, Rift Valley and western Kenya then grown only by white settler farmers in the so-called white highlands. In the 1930s, following the Devonshire White Paper report of 1923, the colonial government allowed controlled planting of coffee outside European-settled areas, particularly in Kisii and Meru and there was no statutory control, in terms of crop husbandry, production, processing, grading and marketing. The marketing of coffee was handled by individuals and through rudimentary institutions between 1900 and 1933. At the request of coffee farmers, the colonial government enacted the Coffee Industry Ordinance in 1932 and established a Coffee Board (CB) in January 1933. The role of the Coffee Board was licensing, inspection and promotion.

The Coffee Marketing Board (CMB) was established under Coffee Marketing Ordinance No. 6 of 1946 and became fully operational on 1 July 1947 to cater for coffee marketing activities, with functions including central warehousing, sales of coffee at central auctions, liquoring and financing.

In 1954, the colonial government's Swynnerton Plan was introduced, with the main objectives of land adjudication and consolidation. The plan also facilitated the African acquisition of land and led to the expansion of coffee production. The first African coffee cooperatives were registered soon after the implementation of the plan.

Ordinance No. 26 of 1960 consolidated the Coffee Industry Ordinance and the Coffee Marketing Ordinance into the Coffee Ordinance Cap 333. This came into effect on 5 July 1960, when the Coffee Board of Kenya (CBK) and the CMB were established under the same law.

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 the Coffee Act empowered the Minister in charge of agriculture to prescribe that a farmer owning less than 20 acres should join Cooperatives. The threshold for mandatory membership of Cooperatives has since fallen to five acres as 'larger' smallholder farmers demanded independence from pooling their coffee with others without fair compensation.

The CMB was abolished in 1971 and its function of coffee marketing was consolidated within the regulatory functions of the CBK. Since then, the CBK controlled the coffee sub-sector up to July 2001, when a new Coffee Act 2001 was enacted that specified new roles for CBK as an industry regulator.

The collapse of the International Coffee Agreement (ICA) in 1989 precipitated a 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).

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 including warehousing, custody of warehouse receipts, auctioning, and payments processing were granted to millers and marketing agents.

The Finance Act, 2005 amended the Coffee Act, 2001 to introduce a second window of selling coffee referred to as direct coffee sales. However, the regulations were never amended to allow the farmers to trade at Nairobi Coffee Exchange (NCE). The last amendments to the Coffee General Rules were undertaken in 2012 to establish a Ministerial Committee to manage NCE. The amendment also barred the grower marketing agents from trading at NCE. Further, 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 embedded in the Agriculture Sector Development Strategy (ASDS) of 2010.

In line with the ASDS, the Parliament enacted the Agriculture and Food Authority Act 2013 and the Crops Act, 2013, which repealed the Coffee Act, 2001. Among others, the Coffee Board became a directorate under AFA, 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.

Following the promulgation of the Kenya Constitution 2010, certain functions related to agriculture, including the provision of extension services, were devolved to the county governments, giving the county governments a role in the development of the coffee sector in their counties.

His Excellency the President appointed a National Taskforce on the Coffee Subsector Reforms on 3rd March 2016 vide gazette notice No. 1332. The gazette proposed major changes to address the challenges facing the coffee subsector and how to turn it around.

The Crops (Coffee) (General) Regulations 2019 were gazetted in 2019 to replace Coffee General Rules 2001 to regulate the coffee sector and are currently in use.

3. Policy Background

Agricultural policies in Kenya have been developed around the main objectives of increasing productivity and income growth across the different sectors and sub-sectors. Within this framework, several policies have been formulated and implemented to introduce stability in agricultural output, to commercialize and intensify production, and to promote appropriate and

participatory policy formulation and environmental sustainability across both food and cash crops including coffee.

The Economic Recovery Strategy (ERS) 2003-2007 was drafted with these aims as a background and was centered on the development of the three main sectors (i.e. agriculture, manufacturing and services) of the economy. The strategy involved several interventions in the agriculture sector, the main ones being providing single enabling legislation, rationalizing roles and functions of agricultural institutions, developing the irrigation schemes across the country, strengthening extension services and increasing smallholder access to credit. Within this context, in 2004 the Ministry of Agriculture, Livestock, Fisheries and Cooperatives (MoALF & C) drafted and endorsed the Strategy for Revitalizing Agriculture (SRA), spanning up to 2014 that aimed to create a vibrant, business-oriented agricultural sector, producing jobs in rural areas and participating in regional and international trade.

In June 2008, the government launched Kenya Vision 2030 as the blueprint strategic document for Kenya's economic and social development. The main objective of the strategy was to transform Kenya into a newly industrialized, middle-income country providing a high quality of life to all its citizens in a clean and secure environment' (Government of Kenya, 2007). In this document, agriculture is considered a strategic sector for the achievement of the 10% annual growth rate target through the transformation of smallholder agriculture from subsistence to commercially oriented and modern agriculture.

The Kenya Vision 2030 (Third Medium Term Plan 2018-2022) is a nationwide multi-sectorial document that outlines the main policies, legal and institutional reforms as well as programs and projects that the Government plans to implement during the period 2018-2022. It is a part of the implementation process of the Kenya Vision 2030, the national strategy covering the period from 2008 to 2030 which aims to transform Kenya into a newly industrialized, middle-income country providing a high-quality life to all its citizens through three pillars: economic, social and political.

The endorsement of the vision was followed by a review of the SRA that led to the development and approval of the ASDS 2010-2020, the main objective of which was to achieve a food secure and prosperous nation by 2020. The strategy identifies four major challenges for Kenyan agriculture: persistent low productivity; sub-optimal land use mainly related to the growth of the population; inefficient markets due to insufficient storage capacity and poor access to markets; and the low levels of value addition and largely informal value chains. To address these challenges, the ASDS set out strategic objectives for each agriculture sub-sector including the coffee sector and listed six major intervention areas: irrigation and water management, land use, the development of northern Kenya, natural resource management, the development of river basins, and forestry and wildlife.

The ASDS provided the basis for the implementation of the CAADP Compact and the formulation of the Medium Term Implementation Plan (MTIP) 2010-2015 that was developed to ensure the implementation of the ASDS. The MTIP was revised in 2013 and included a 'Results Framework' based on six pillars: (i) increasing productivity and commercialization, (ii) promoting private sector participation, (iii) promoting sustainable land and natural resources management, (iv) improving agricultural services, (v) increasing market access and trade, and (vi) promoting effective sector coordination and implementation.

Agriculture Sector Transformation and Growth Strategy (ASTGS), 2019-2029 is a ten-year nationwide sectorial document aiming at developing and transforming the agricultural sector to achieve what is established by Article 43 of the Constitution which states that Every person has the right to be free from hunger, and to have adequate food of acceptable quality". To reach the overall goal it establishes 3 anchors for the first 5 years as follows (i) increase small-scale farmer, pastoralist and fisher-folk incomes; (ii) increase agricultural output and value add, and (iii) increase household food resilience.

Big 4 Agenda: The Big Four Agenda is an economic blueprint that was developed by the government to foster economic development and provide a solution to the various socio-economic problems facing Kenyans built on the 4 pillars of food security and nutrition, affordable universal health care, Affordable housing and Enhancing manufacturing by the year 2022.

The fourth schedule of the Constitution of Kenya 2010 has assigned specified functions on agriculture to the national government and the county governments and it stipulates that the two levels of government shall conduct their mutual relations based on consultation and cooperation (Article 6 and Article 189 (1) (b) (c)). The role of the National government is to formulate and implement national agricultural policies and strategies to develop the agricultural sector. The roles of county governments include agriculture (crop husbandry); implementation of programmes in the agricultural sector to address food security in the county; development of programmes to intervene on soil and water management and conservation of the natural resource base for agriculture; land development services for horticultural production for food security and others.

The various County Integrated Development Plans (CIDPs) and country-specific legislation, policies and strategies: Individual county governments have developed different pieces of country-specific legislation, policies and strategies for the development of agricultural production and marketing in the individual counties. These instruments will affect the coffee industry in individual counties.

Kenya is also a signatory of various International coffee policies and treaties which are employed by the international community to regulate trading or to reduce the volatility of different products markets. TheTreaties and Conventions ratified by Kenya form part of its laws pursuant to Article

2 of the Constitution. These include trade agreements, international arrangements or controls or limitations on activities on commodities markets, regional and bilateral policies that are employed by governments to regulate trade. These policies among others include export bans or limitations, variable export taxes or import tariffs among others.

There are other relevant legislations to the production, processing and marketing of coffee. These include:

The Crops Act 2013 was enacted to accelerate the growth and development of agriculture in general, enhance productivity and incomes of farmers and the rural population, improve the investment climate and efficiency of agribusiness and develop crops as export crops that will augment the foreign exchange earnings of the country, through the promotion of the production, processing, marketing, and distribution of crops in suitable areas of the country.

Agriculture and Food Authority Act No. 13 of 2013 provides for the consolidation of the laws on the regulation and promotion of agriculture generally, to provide for the establishment of the Agriculture and Food Authority, to make provision for the respective roles of the national and county governments in agriculture excluding livestock and related matters in furtherance of the relevant provisions of the Fourth Schedule to the Constitution and connected purposes

Agricultural Produce (Export) Act Cap. 319 provides for the grading and inspection of agricultural produce to be exported, and generally for the better regulation of the preparation and manufacture thereof. This Act makes provision for the public control of the exportation of agricultural produce and any other article produced or derived from farming operations that the Minister, by notice in the Gazette, declares to be agricultural produce for this Act.

Food, Drugs and Chemical Substance Act Cap. 254 make provision for the prevention of adulteration of food, drugs and chemical substances. This Act provides rules for the placing on the market of food, drugs for man and animal and chemical substances, establishes the Public Health (Standards) Board and makes otherwise provision for the control of the quality and safety of food, drugs and chemical substances to be placed on the market of Kenya.

Public Health Act Cap 242 is concerned with the protection of public health in Kenya and lays down rules relating to, among other things, food hygiene and protection of foodstuffs, the keeping of animals, protection of public water supplies, the prevention and destruction of mosquitos and the abatement of nuisances including nuisances arising from sewerage. The Act establishes the Central Board of Health and County health management boards. It also establishes and defines the functions of health authorities.

Trade Description Act Cap. 505 prohibits misdescriptions of goods, services, accommodation and facilities provided in the course of trade, prohibit false or misleading indications as to the price of goods and confer powers to require information or instructions relating to goods to be marked on or to accompany the goods or to be included in advertisements.

Weights and Measures Act Cap. 513 amends and consolidates the law relating to the use, manufacture and sale of weights and measures and provides for the introduction of the International System of Units (SI). This Act would apply to agriculture produce trading in regard to their correct weights and labeling for efficient marketing.

Standards Act Cap. 496 makes provision for the promotion of standards in Kenya and for this purpose established the Kenya Bureau of Standards (KEBS) as a body corporate. KEBS promotes standardization in industry and commerce in Kenya and carry out other functions assigned to it under this Act. The Act also establishes the National Standards Council which among other things, supervises and controls the administration and management of the Bureau, declares standards and advises the Cabinet Secretary of standards policy. The Act further sets out procedures for the control of standardization marks and undefined permits including for agricultural produce and products

The Kenya Agricultural and Livestock Research Act No. 17 of 2013 provides for the establishment and functions of the Kenya Agricultural and Livestock Research Organization; to provide for organs of the Organization; to provide for the coordination of agricultural research activities in Kenya, and for connected purposes.

Pest Control Products Act Cap 346 of 1982 regulates the importation, exportation, manufacture, distribution and use of products used for the control of pests and of the organic function of plants and animals and for connected purposes.

4.0 Challenges Being Addressed

Smallholder farmers contribute to over 60 percent of the country's coffee production. However, the smallholder farmers face disproportionately high production and processing costs. Fertilizer is one of the critical inputs in coffee production and it accounts significantly for 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 go 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 in addition to lowering produce quality. 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.

In addition to the escalating high production costs, the area under coffee is shrinking due to urbanization due to high demand for real estate and the lack of a supportive land use policy. The situation, if not addressed, may reduce high-quality coffee production in the long term.

Studies were 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. This lack of interest by youth does not augur well for the future of the coffee industry.

Whereas the Cooperative societies process and market coffee for most smallholder farmers, the lack of effective oversight has allowed Cooperatives committees to overstate their operational costs, and allegedly have under-hand deals with millers, marketing agents and other service providers. This in addition to high processing losses erodes growers' income and this is evident in the Cooperative societies' differences in cherry payment schedules and is the cause of the variation in cherry payments per kilogram and whereas some Cooperative societies consistently pay reasonable amounts for cherry delivered, most consistently pay poorly.

Further, whereas the milling agreements set 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. Generally, 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 growers encourages some millers to overstate the milling loss, manipulate grades, interchange coffee ownership, and introduce hidden charges which leads to loss of volume and reduction of quality making the coffee value inefficient and costly venture for growers.

As a result of the above factors, despite improving global coffee prices, payments to farmers have remained low. In 2015 for example, based on the prices of the main grades which form the bulk of the sales volume at the NCE, the average price per kg of green coffee was Kshs. 477 equivalent to Kshs. 68 per kg of cherry in 2015. This price could have been as high as Kshs. 85 per kg of cherry for farmers producing AA and other high-value grades. However, the majority of the Kenyan smallholder farmer, in most parts of the country, received Kshs. 40-50 per kg of cherry during 2019/20. This was less than 64 percent of the prices received at the NCE. In addition, though coffee is paid for in US$ to marketing agents who keep the cash for seven days or more, a majority of them pay farmers in Kshs. and not on time. Therefore, most farmers do not benefit from any potential currency gains.

Apart from the low payments received, many growers have to wait for almost 6 to 8 months 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 the processing of payments. Although the payments to growers are required by law to be made within 14 days, this is occasionally violated. Quite often, there are complaints of even further delays at the Cooperative level. Some of these

delays are attributed to managerial inefficiencies, including coffee factory management's limited capacity and in some cases, indebtedness of the Societies sometimes borrowed against the growers' deliveries.

While Kenya has the natural advantage 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 the fact that in Kenya, farmers do not directly market their coffee, and therefore do not know the opportunities in the market including branding for target niche markets. Lack of information on the supply on how to buy, as well as ways to authenticate the sources and unprofiled Kenya flavor-based coffee classification as opposed to selling coffee by bean-sizes description such as AA, AB, etc. is currently the situation. This form of description accords no meaning or loyalty to customers. Thus, Kenyan coffee, in many ways, the coffee lacks distinguishing marks and is sold as a raw material with no value addition.

5.0 Consultation Outcome

The Ministry conducted public participation workshops in different counties targeting specific stakeholders likely to be affected by the amendment regulations. Through the Agriculture and Food Authority, the Ministry sent invitation letters to various counties requesting them to facilitate the attendance of stakeholders within their regions to the public participation fora on the proposed amendment regulations.

The public participation workshops were undertaken in the following counties as follows; On 29th December 2021, the Ministry held a public participation workshop at Mt. Elgon Coffee Mills. The meeting was attended by the participants from Bungoma, Kakamega and Busia counties. On 30th December 2021, the Ministry held a stakeholders' engagement workshop at Nyamira KIE Hall. The workshop was attended by representatives from Nyamira, Migori and Kisii counties. On 31st December 2021, the Ministry held a stakeholder workshop in Kabarnet which was attended by stakeholders from Baringo county.

On 4th January 2022, the Ministry held a public participation workshop at Gatundu Teachers College. The workshop was attended by participants from Kiambu county. Some of the participants included farmers and farmers' associations, representatives from the AFA-Coffee Directorate coffee traders, coffee cooperative societies and coffee estates.

On 5th January 2022, the Ministry undertook public participation workshop in Machakos Catholic Hall which was attended by participants from Machakos and Makueni counties. Some of the participants included the media house, representatives from the county government, cooperative societies, farmers, AFA coffee directorate, representatives from coffee estates, self-help groups, representatives from cooperative societies, coffee traders and stockists.

On 6th January 2022, the Ministry held a consultative workshop at Kutus ACK Hall which was attended by participants from Kirinyaga, Nyeri, Murang'a and Embu counties. The workshop was attended by CECs from counties responsible in charge of agriculture, AFA coffee directorate, farmers and farmers' associations, cooperative societies, coffee estates, University of Embu, Kirinyaga University, coffee traders and stockists.

On 7th January 2022, the Ministry held a stakeholders' engagement at Kamunde Hall which was attended by participants from Meru and Tharaka Nithi counties. The participants comprised of representatives from the county government Ministry of agriculture, coffee estate and coffee cooperative societies, coffee traders and stockists, representatives from AFA, farmers and farm owners, media houses among others.

The records from the public fora show extensive deliberations on several issues that arose from the proposed Regulations. For instance, some of the issues raised by the stakeholders included the tenure of office of cooperative directors, the term of licenses issued under the regulations, the per centum charge by miller marketers licensed under the general regulations, a cap on the allowable milling losses, a cap on deductions by coffee factories, cost of coffee milling and related activities among others.

The participants were also allowed to review the amendment regulations through the circulation of the regulations to them immediately after the consultative meetings and given the opportunity to send additional comments via email to the technical team. From the records of public participation, it was apparent that the Ministry and the technical team collated, reviewed and incorporated into the proposed Amendment Regulations the issues raised and comments received from the public participation workshops.

5.1 National Level Consultations (Government)

The Ministry of Agriculture, Livestock, Fisheries and Cooperatives through the Directorate of Crop Development facilitated the public participation fora and participated in the public consultative forums among other national institutions. Additionally, Agriculture and Food Authority (AFA) provided useful comments for the development of the proposed Regulations.

5.2 County Governments Level Consultations

From the records shared by the Ministry, there was evidence on record to show that representatives of various county governments were consulted or participated in the process of the review of the proposed amendment regulations.

The Ministry held public participation workshops in 7 regions targeting 16 counties that are likely to be affected by the proposed amendment regulations. The venues were selected based on the centralized county and other county governments were able to attend and participate in the fora. The following Counties participated in the public fora; Bungoma, Kakamega, Busia,

Nyamira, Migori, Kisii, Baringo, Kiambu, Machakos, Makueni, Kirinyaga, Nyeri, Murang'a, Embu, Meru and Tharaka Nithi counties.

The regulations were also accessed by the county governments through uploading the regulations onto the afa.go.ke website and feedback by the CoG to the Cabinet Secretary, MALF&C, is an attestation on the effectiveness of the public participation.

Some of the notable County government Officials who attended the consultative meetings include; the CECMs in charge of Agriculture in Nyeri and Muranga, Chief Executive Officer Machakos, and the Director of Agriculture from Nyamira county.

5.3 Research and Academia

The research and academia fraternity were also represented in the review process of the proposed amendment regulations. For instance, representatives from the University of Embu and Kirinyaga University attended the public participation workshop held in Kirinyanga county. The regulations were also accessed by the Research and academia through uploading the draft regulations onto the afa.go.ke website.

5.4 Private Sector

Different stakeholders from the private sector were able to attend the public fora held in different counties. For instance, there was the representation of farmers and farm owners, farmers associations, cooperative societies, Cooperative Unions, self-help groups, and investment companies, among others.

5.5 Stakeholder Views

The issues raised by stakeholders included the deliberations focused on the tenure of office of cooperative directors, the term of licenses issued under the regulations, the per centum charge by miller marketers licensed under the general regulations, a cap on the allowable milling losses, cost of coffee milling, capping of factory deductions, one third gender rule in the establishment of committees and related activities among others.

5.6 Assessment of Adequacy of Public Participation Process

The Ministry undertook a mapping of various stakeholders from different levels as required in the Statutory Instruments Act, 2013. The Ministry targeted coffee growing and production counties and specifically the farmers and farm owners, farmers' associations, cooperative societies, coffee traders and stockists, self-help groups, and investment companies, CEC member of agriculture and County Director of Agriculture (CDA) among others.

Research institutions such as the University of Embu and Kirinyaga University attended the public participation workshops and as well made useful comments on the proposed Amendment Regulations.

Articles 1 and 6 and Chapter 11 of the Constitution recognize the devolved government. Paragraph 1, Part 2 of the 4th Schedule to the Constitution of Kenya recognizes agriculture which includes plant and animal disease control as a devolved function now placed under the mandate of the county governments. In this regard, it was noted that there was adequate consultation of the county governments. The representatives of different counties were consulted or participated in the process of review of the proposed Regulations.

The outcome and the comments from the workshops were useful in the review of the proposed Regulations. The private sector was also allowed to participate in the workshops. The Consultant has reviewed the various records of public participation and the Ministry's matrix on implementation of the stakeholder's comments and was satisfied that the draft Amendment Regulations incorporated the comments and suggestions received from the stakeholders.

Overall, the formulation of the Crops (Coffee)(General)(Amendment) Regulations 2022 was fully compliant with the law relating to public participation and stakeholder engagement in Kenya.

Attached and captured below are the consultation outcomes:

NO.	PROPOSAL	OPINION BY STAKEHOLDERS	RESPONSES FROM THE MINISTRY
1.	Clause 7(8) "The directors of a coffee co-operative shall serve for five-year term renewal once".	the tenure of office for the cooperative Directors should be left to the members to decide Directors of Cooperative Societies to be elected into office for 5 years renewable once like parliamentarians	The regulations were amended to extend the term in office from 3years to five years as preferred by the cooperative leaders.
2.	7(9) "In appointing Directors under this section, a cooperative society shall ensure that not more than two-thirds of the members are of one gender"	This proposal is misplaced because it talks of appointing when Directors go through an election and the best person wins. This therefore cannot work	The regulations were amended to incorporate the proposal that the Cooperative societies leaders undergo an election process not appointed as stated
3.	Clause 7(11) "Notwithstanding the provisions of any other law, every Coffee factory may, by resolution of its members in an Annual General Meeting, apply for registration as a cooperative society under the Co-operative Societies Act"	This will bring problems as it will encourage splits in Cooperatives which is against the spirit of the cooperative movement. There is a need to encourage the bigger societies except in situations where one factory is not benefiting from the affiliation.	Only by resolution of members in an AGM as proposed in the draft regulations
4.	Clause 10(1)(d) "The Authority shall seek clearance and registration of millers by county governments before issuing miller-marketer	The Council of Governors raised concerns with the Cabinet Secretary on the licensing of miller- marketers without consulting the county governments as contained in	The regulation was amended to require that the county governments approve miller licence applications before Miller – marketer licences are

	licences"	the Crops(Coffee)(Genera) Regulations, 2019, thus going against the agreed position with counties	issued.
5.	clause 14(1) "Licences issued by the licensing authority shall run from 1st October to 30th September of every year and application for renewal of a licence shall be made to the Authority not late than the 1st day of September in which the current licence is to expire".	This will align the Regulations to the internationally recognized crop year to avoid the licenses and service agreements expiring at different times. The service agreements that run up to the end of the crop year are not covered when the licenses expire in June.	The proposal is noted for action. It is good for harmony in the industry.
6.	Amend sub-regulation 22(1) by inserting the following - "every coffee factory shall, by annual resolution of its members in an Annual General Meeting, competitively procure services of a licensed miller-marketer for the milling parchment and buni coffee and the marketing of clean coffee, or as the case may be"	The procurement of millers should be left to the management not members in an AGM. This will avoid confusion being created by the millers who will compromise the members so that they vote in their favor even when they are not offering a good service. The societies being public entities should procure their services competitively guided by the public procurement guidelines.	The regulations were amended to require management committees competitively source for milling and marketing services by subjecting their choice to the general meetings for ratification
7.	Insert a new sub-clause 22(2) to read as follows – "miller-marketers licensed under this part shall charge up to one per centum of the value of the coffee sold as marketing fees	This is good because it will encourage the miller-marketers to look for better markets with good prices which will reflect on their fee. Initially, the charges have been very high.	The proposal be retained as is

	clause 22(1) "The milling losses allowable under this clause may be capped at nineteen percent of parchment coffee milled".	Capping at 19% is unrealistic because milling loss depends on many factors and the grade of coffee. The milling loss is capped at 19% or any other level as will be advised by the Authority from time to time.	The Authority will consultatively give guidelines from time to time.
9.	The cost of coffee milling and related activities (handling, sorting, grading, packaging, warehousing charges) shall not exceed Ksh4,000.00/ton of coffee delivered	this cost is too low and maybe unsustainable for some mills forcing them to shut down.	This will act as a check against overcharging of farmers by millers.
10.	Insert a new clause 23(1) to read "It shall be illegal for coffee miller-marketers to offer farmers financial support"	This is not good for the farmers as the millers and marketers are the only people they run to and barring this without alternatives will make farmers suffer and not be able to run their factories.	This is upheld to avoid farmers getting tied in a cycle of debts. There is a tendency for farmer entities to over-borrowing from millers at exorbitant rates at the expense of the members.
11.	Amend Regulation 25 by inserting the following new sub-regulation 25(8) after sub-regulation 25(7) to read as follows "All payments to growers for coffee sold and for services rendered for such coffee whether by miller-marketers, warehousemen, auction organizers, coffee societies and factories	The monies from the sale of coffee should be channeled to the farmers' account at the society level where the payment calculation request (PCR) is done, and farmers paid their dues. Being paid directly by the DSS is not good for the cooperative movement.	The amendment is upheld because payment by the DSS to the individuals' bank account will promote efficiency and hasten farmers' payments after the sale of the coffee. To avoid delay in disbursing farmers' proceeds after the coffee sale.

	shall be paid into their individual accounts from the direct settlement system"		
12.	Amend Regulation 25 by inserting the following new sub-regulation 25(10) after the new sub-regulation 25(9) to read as follow "Payments to factories or societies from the direct settlement system for operations and maintenance shall be five per centum of the value of coffee sold net of the milling, warehousing, and marketing costs.	Currently, the societies charge 20% for operations and still many are struggling. Lowering to 5% will straight away kill some societies.	The 5% deductions are upheld and Cooperatives societies are encouraged to operate on approved budgets and uneconomical units be encouraged to merge or convert into collection centers.

6.0 Impact

6.1 Impact on Fundamental Rights and Freedoms

The proposed Regulations shall have a positive impact on the fundamental rights and freedoms in the following ways: -

i. **Consumer Protection**

The draft Amendment Regulations seek to promote consumer protection by ensuring quality guarantees of the coffee in the consumption market. Specifically, clause 6 amends the functions of the Agriculture and Food Authority by imposing additional powers to develop, oversee and enforce as the case may be the national regulations, coffee industry standards and industry code of practice and other quality standards in the coffee industry in collaboration with Kenya Bureau of Standards. The Amendment Regulations also empower the Authority to undertake inspections and surveillance of industry players. These powers are aimed at ensuring that the production, importation and sale of coffee meet the quality standards and the end product are of merchantable quality. Additionally, clause 10 provides for the clearance and registration of miller-marketer by county governments before issuance of licenses for milling and marketing of coffee to applicants. Compliance with the licensing requirements will ensure that the set standards are observed as measures of consumer protection. The provisions of the Amendment Regulations, therefore, reinforce consumer protection.

These provisions of the Amendment Regulations are in line with the provisions of article 46 of the Constitution. The Constitution under Article 46(1) guarantees consumers the right to goods and services of reasonable quality. The proposed Amendment Regulations will protect consumers from the consumption of poor-quality coffee.

ii. Access to information

Article 35 of the Constitution guarantees the right of access to information held by another person and is required for the exercise or protection of any right or fundamental freedom. This is reflected in the proposed amendment regulations under clause 7 which proposes to amend regulation 7 of the General Regulations and substitutes the registration requirement. The Amendment Regulations mandate the Authority to undertake registration of all coffee warehousemen, warehouses, coffee mill-marketer, grower marketers, grower millers, auction organizers, coffee buyers, roasters, importers and certification companies, maintain up to date register on them and share the register with respective county governments. The information management systems maintained by the county government including the database on registers will be accessible to the public as necessary for the subsector.

iii. Affirmative action

The Constitution provides for equality and non-discrimination. Specifically, Article 27 (8) requires the implementation of the constitutional principle on equality and non-discrimination such that not more than two-thirds of the members of elective or appointive bodies shall be of the same gender. The Amendment Regulations seek to enforce this provision under clause 7 by incorporating provisions mandating the Cooperative Societies to ensure that not more than two-thirds of the members are of one gender while appointing its board of directors.

iv. Economic and social rights

Article 43 of the Constitution of Kenya, 2010 provides for economic and social rights. It affirms the right of individuals and communities to an adequate standard of life including the right to be free from hunger and have adequate food of acceptable quality. The proposed Amendment Regulations, if enacted into law, shall create employment opportunities in coffee plantations and production which in turn shall ensure the realization of economic rights.

7.2 Impact on the Public Sector

The proposed Regulations will affect the public sector in the following ways: -

i. The Authority will strengthen and streamline the regulatory framework of the coffee industry by having clear identification, definition and distinction of all industry actors and the roles for the different coffee value chain actors and to eliminate conflicting roles by some of these actors which often results in colluding and underhand dealings in the sector to the detriment of other sector actors and especially farmers.

ii. The incorporation of the national body for the time being responsible for standards in the development, oversight and enforcement of quality standards in the coffee sector will facilitate and support the development, implementation and compliance with the standards in the coffee industry.

iii. Continuous inspections and surveillance of industry players by the Authority to allow the Authority to continuously monitor compliance of all industry players and as well to access their eligibility for issuance or renewal of licenses and to oversight the coffee sector performance in general.

iv. Supervision of coffee Cooperative Societies will be strengthened through the introduction of two five-year term limits for directors of coffee Co-Operatives, the requirement of not more than two-thirds of the directors being of one gender, and directors to meet the requirements of Chapter Six of the Constitution.

v. The county governments will have a role in the issuance of distinguishing marks and grower codes which will promote the coffee quality and standards compliance and growers coding and registration for branding and effective produce traceability and also in the registration of miller- marketers at the county level.

vi. The requirement that research in coffee and for results validation be done only by KALRO is removed which will allow on-farm research even for own use by large abled large estates, and use of indigenous technical knowledge in coffee farming especially among smallholder farmers and reduce the cost of research.

vii. The Authority in consultation with industry stakeholders will have the responsibility of developing a training curriculum, conducting examinations and issuance of certificates for coffee liquorers.

viii. The different licences and fees prescribed in the regulations will generate additional revenue for the Authority.

7.3 Impact on the Private Sector

The proposed Regulations will affect the private sector in the following ways:

i. The clear identification, definition and distinction of industry actors and their roles for the different coffee value chain actors will eliminate conflicting roles by some coffee industry actors which often results in colluding underhand dealings in the sector to the detriment of other sector actors, especially farmers.

ii. The licensing of independent coffee auction organizers will ensure fair trading in the coffee auctions devoid of any form of collusions or effects of vested interest by non-independent auction organizers.

iii. The licensing of miller-marketers will allow such millers to engage directly in coffee marketing without having to engage alternative marketing agents at a cost that erodes farmers' incomes.

iv. The incorporation of the national body for the time being responsible for standards in the development, oversight and enforcement of quality standards in the coffee will facilitate and support the sector private sector meet internationally acceptable standards and branding for entry into alternative global coffee markets.

v. Regular inspections and surveillance of industry private sector players by the Authority will ease the process of issuance or renewal of licenses due to the continuous monitoring of compliance.

vi. Licensing of grower miller means that a grower who mills own parchment or mbuni will market their produce themselves, which encourages more growers to invest in milling facilities, and thus be responsible for the quality of their produce.

vii. Governance in Cooperatives will be strengthened through the introduction of two five-year term limits for directors of coffee Co-operatives, the requirement of not more than two-thirds of the directors being of one gender, and directors to meet the requirements of Chapter Six of the Constitution, thus improved efficiency and farmers' returns.

viii. Providing for the coffee factory by resolution of its members in an annual general meeting to register as Societies under the Co-operative Societies Act will allow them to register as Societies and manage their own affairs and avoid inefficiencies within large Cooperatives which erode profits of well-performing factories.

ix. Proposed licensing protocol in the industry will prevent a holder of a coffee buyer's licence or any other entity associated with such holder to be licensed as a miller-marketer, roaster or warehouseman to prevent the development of oligopolistic or even monopolistic coffee agencies that would be a threat to the survival of smallholder coffee organizations who are the backbone of the Kenyan coffee sector.

x. Appointment of a licensed miller-marketer for the milling parchment and mbuni coffee and the marketing of clean coffee by growers of a coffee factory by the management

committee shall competitively lower the cost of service and the decision of the management committee shall be ratified by the members at the annual general meeting. This is expected to promote transparency, members' participation and efficiency in the delivery of services and with disclosures of all charges and fees.

xi. The capping of marketing fees, milling losses allowable and cost of coffee milling and related activities (handling, sorting, grading, packaging, warehousing charges) will protect growers from excessive charges for services and ensure efficiency, thus ensuring better returns for growers.

xii. Prohibition of coffee miller-marketers to offer farmers financial support will protect growers from borrowings by society management against the members' assets or coffee deliveries and often leaves societies heavily indebted.

xiii. Prohibiting miller-marketers or their agents from participating in the buying of coffee and also prohibiting parallel directorships and cross-ownership of shares in miller-marketers and coffee buying companies will ensure fair trade practices in coffee marketing and eliminate possible acts of colluding by players with multiple interests.

xiv. Direct coffee sales will be subject to price competition at the Nairobi Coffee Auctions whereby the direct sales price shall serve as a reserve price. This will ensure that coffee farmers will not be victims of depressed prices even from prospective direct sales.

xv. All payments to growers for coffee sold and for services rendered for such coffee whether, by miller-marketers, warehousemen, auction organizers, coffee societies and factories will be paid into their individual accounts from the direct settlement system. This will protect payments due to growers and other service providers from possible risks of diversion, misappropriation, and unallowable appropriations and even delayed disbursement of payments.

xvi. Payments to factories or societies from the direct settlement system for operations and maintenance to five per centum of the value of coffee sold net of the milling, warehousing and marketing costs, protecting farmers from excessive charges.

xvii. Nairobi Coffee Auction service agreements with commercial banks which qualify and are appointed to offer the services of Direct Settlement System services for the coffee subsector which will further secure growers' dues.

xviii. Licensing of independent coffee liquorers and cupping centres will ensure fair practices in coffee liquoring and grading.

xix. The interest rate on borrowing by a coffee factory/Cooperative society against growers' assets such as land, machinery, equipment held in trust by the growers' coffee factories Co-operative societies is capped at five percent per annum; factories or societies shall only contract loans or advances with the support of a resolution passed by a majority of the growers; a breach of these requirements constitute an offence and any loans borrowed in breach of this provision shall be statutorily converted. This will protect members' interests in the society/factory.

xx. All marketing agent licenses existing as of 30th June 2021 to remain valid until a Direct Settlement System is established for the processing of coffee sales proceeds and other ancillary services. This will ensure continuity in business during the transition phase until the envisaged changes are fully in place.

xxi. The different licences and fees prescribed in the Amendment Regulations will marginally increase the cost of doing business in the coffee sector.

8. Monitoring and Review

Monitoring and evaluation (M&E) of the regulations is important in determining its effectiveness, efficiency and adequacy in achieving its intended objectives and purpose. It informs the government and players in the sector whether the regulations are working. Proper use of M&E mechanisms constitutes a major change in operational style and working culture of regulatory authorities that enables them to set up a process of continuous learning through experience and evidence. A well-functioning system of M&E would directly influence the ability of regulations to foster competitiveness and economic growth in the sub-sector. Review of regulations will ensure it is consistent and effective in regulating the activities in the sub-sector.

It is expected that the Regulations shall be a subject of great interest to all stakeholders particularly because of its potential to offer improvement in incomes, creation of employment, reduction of poverty and enhancement of the living standards of Kenyans. The Ministry of Agriculture working together with the County Governments and the Agriculture and Food Authority (AFA) should work hand in hand to initiate, facilitate and promote research and surveys to review the adequacy and effectiveness of the Regulations towards promoting the growth and development of the industry that will increase the production and sale of coffee. The information collected from the research and the various stakeholders in the sector may be used to enhance prudent planning and decision-making process will also enable AFA and the County Governments to conduct a survey of the sector to find out whether the objectives of the Regulations have been met and identify areas for improvement.

Regulation 7 of the proposed Regulations require AFA to maintain an up-to-date register of coffee warehousemen, warehouses, coffee miller-marketer, grower marketers, grower millers, auction organizer, coffee buyers, roasters, importers, and certification companies and share the information with county governments. This will provide critical real-time data and information to the government of all the players in the coffee sub-sector. This information is important in planning and decision-making on the production, distribution and marketing of coffee in the country.

9. Contact

Director-General
Agriculture and Food Authority
Ministry of Agriculture, Livestock, Fisheries & Cooperatives,
Kilimo House, Cathedral Road,
P.O Box 30028 – 00100,
Nairobi.
Phone number: +254 20 2718870
Email: psagriculture@kilimo.go.ke

COFFEE DIRECTORATE

REPORT ON THE PUBLIC PARTICIPATION ON AMENDED CROPS(COFFEE)(GENERAL) (AMENDMENT) REGULATIONS, 2022.

1. INTRODUCTION

The Crops (Coffee)(General)Regulations 2019 which were published and became operational on 1/7/2019 operationalized the Crops Act 2013. These new regulations introduced certain changes in the regulation of the coffee subsector compared to the provisions of the repealed Coffee (General) Rules, 2002. The regulations of 2019 took cognizance of the devolution of agriculture in the Constitution and the Crops Act, 2013.

The 2019 regulations introducesf other regulators and licensing authorities namely the County Governments and the Capital Markets Authority (CMA). Other changes included the abolition of the function the Commercial Marketing Agents and Grower Marketers and in their place new players were introduced among them grower-miller, brokers, agents, and the Direct settlement system (DSS) among others.

The Capital Markets Coffee Exchange Regulations, 2020 were published in April 2020 and were to be operational by April 2021. This transition did not work because the necessary infrastructure was not in place.

Clause 46 which allowed the presence of the Commercial Marketing Agents to continue operating up to the time the licenses expired, and new players licensed under the new regulatory dispensation was amended to allow the old dispensation

2. EXPIRY OF THE MARKETING LICENSES JUNE 2020

As of 30th June 2020, the Commercial Marketing Agent licenses issued earlier expired. However, the DSS was still not in place and the CMA Coffee Regulations were not yet operational, which meant a lacuna existing with nobody to sell coffee at the Exchange. To address the challenge, the CS issued a legal notice extending the presence of the marketing agents on the trading floor until June 2021. This was also repeated in 2021 through another Legal Notice No. 104 of 2021 extending the presence of the Commercial Marketing Agents by amending clause 46 of the regulations once again. However, the capital markets coffee regulations now operational, and five coffee brokers licensed by the CMA are ready to sell coffee at the auction. This has resulted in a confusion since marketing agents had already been licensed by the Coffee Directorate thus bringing a conflict on the trading of Kenya coffee, a matter that ended up in court.

3. THE CROPS (COFFEE)(GENERAL)(AMENDMENT) REGULATIONS, 2021

The amendment to the principal regulations, the Crops (Coffee)(General) Regulations, 2019 was proposed to remove areas of conflict and align the regulation with the actual status and operations of the Nairobi Coffee Exchange. These proposals were captured in the **Crops (Coffee)(General)(Amendment) Regulations, 2021.** This being a statutory instrument, it is required that pursuant to the statutory instruments act 2013, such amendments be subjected to the stakeholders for them to give their views on the proposals with a view too making a statutory instrument that is responsive to the needs and aspirations of the industry stakeholders.

4. STAKEHOLDER MEETINGS

The following meetings were held in coffee growing areas inviting all the stakeholders to give their views on the proposed amendments as follows: -

NO.	DATE	VENUE	COUNTIES	NO.
1.	29/12/2022	Mt. Elgon coffee mills	Bungoma, Kakamega, Busia	
2.	30/12/2022	Nyamira KIE hall	Nyamira, Migori, Kisii	
3.	31/12/2021	Kabarnet	Baringo	
4.	4/1/2022	Gatundu Teachers hall	Kiambu	
5.	5/1/2022	Machakos Catholic hall	Machakos, Makueni	
6.	6/1/2022	Kutus ACK hall	Kirinyaga, Nyeri, Murang'a, Embu	
7.	7/1/2022	Meru-Kamunde Hall	Meru, Tharaka Nithi	
8.	21/3/2022	YMCA hall -Nyeri	Nyeri	
9.	22/3/2022	Murang'a Union Hall	Murang'a	

5. ISSUES NOTED ON THE PROPOSED AMENDMENTS

NO	REGULATION	STAKEHOLDER VIEWS	RECOMMENDATION	REMARKS
1.	**Clause 7(8)** new clause inserted under clause 7 to read "The directors of a coffee co-operative shall serve for a period of three-year term renewal once".	the tenure of office for the cooperative Directors should be left to the members to decide. A good leader will be re-elected but a bad one will be voted out	Directors of co-operatives be elected to office for a period of 5 years renewable once.	To develop alternative leadership and avoid overstaying in office.
2.	7(9) "In appointing Directors under this section, a cooperative society shall ensure that not more than two thirds of the members are of one gender"	This proposal is misplaced because it talks of appointing when Directors go through an election and the best person wins. This therefore cannot work.	Stakeholder's view is upheld.	Other arms of government such as parliament have not been able to effect the one third gender rule.
3.	Clause 7(11) "Notwithstanding the provisions of any other law, every Coffee factory may, by resolution of its members in an Annual General Meeting, apply for registration as a cooperative	This will bring problems as it will encourage splits in cooperatives which is against the spirit of the cooperative movement.	There is a need to encourage the bigger societies except in situations where one factory is not benefiting from the affiliation.	only by resolution of members in an AGM.

	society under the Co-operative Societies' Act"			
4.	clause 11 (14) "A holder of a miller-marketer licence or any other entity associated with such holder either in shareholding or directorship or in any other way, shall not be licensed as a roaster or a buyer".	This is good because it will eliminate conflict of interest as opposed to what has been happening before.	This view is upheld because it's a good practice.	Good.
5.	clause 14(1) "Licences issued by the licensing authority shall run from 1st October to 30th September of every year and application for renewal of a licence shall be made to the Authority not late than the 1st day of the month of September in which the current licence is to expire".	This will align the Regulations to the internationally recognized crop year to avoid the licenses and service agreements expiring at different times.	Upheld. The service agreements which run up to the end of crop year are not covered when the licenses expire in June.	This is good for harmony in the industry.
6.	a) Amend sub regulation 22(1) by inserting the following - "every coffee	The procurement of millers should be left to the management not members in an AGM. This will avoid confusion being created by	The societies being public entities should procure their services competitively guided by the public procurement guidelines. Members may be called	This will eliminate compromise.

	factory shall, by annual resolution of its members in an Annual General Meeting, competitively procure services of a licensed miller-marketer for the milling parchment and buni coffee and the marketing of clean coffee, or as the case may be"	the millers who will compromise the members so that they vote in their favor even when they are not offering a good service. The CEC should not be part of the process as this is private business.	to ratify at an AGM the decision of the management whom they have elected.	
7.	Insert a new sub-**clause 22(2)(a)** to read as follows – "Miller-marketers licensed under this part shall charge up to **one per centum of the value of the coffee sold as marketing fees**	This is good because it will encourage the miller-marketers to look for better markets with good prices which will reflect on their fee. Initially, the charges have been very high.	This is upheld as it holds the service provider to deliver.	This is good as it will ensure more money into farmers pockets.
8.	clause **22(2)(b)** "The milling losses allowable under this clause may be capped at nineteen percent of parchment coffee milled".	Capping at 19% is unrealistic because milling loss depends on many factors and the grade of coffee.	The milling loss is capped at 19% or any other level as will be advised by the Authority from time to time.	The Authority will consultatively give guidelines from time to time because various factors determine milling loss level.

9.	Clause **22(2)(c)** The cost of coffee milling and related activities (handling, sorting, grading, packaging, warehousing charges) shall not exceed Ksh4,000.00/ton of coffee delivered.	This cost is too low and may be unsustainable for some mills forcing them to shut down.	This is upheld because the New Kenya Planters Cooperative Union PLC has proofed that its possible. They have been charging Ksh. 4000 and is surviving well.	This will check over charging of farmers by millers
10.	Insert a new clause 23(1) to read "It shall be illegal for coffee miller-marketers to offer farmers financial support"	This is not good for the farmers as the millers and marketers are the only people they run to and barring this without alternatives will make farmers suffer and not be able to run their factories.	This is upheld to avoid farmers getting tied in a cycle of debts.	There is a tendency for farmer entities over borrowing from millers at exorbitant rates at the expense of the members.
11.	Amend Regulation 25 by inserting the following new sub regulation 25(8) after sub regulation 25(7) to read as follows "All payments to growers for coffee sold and for services rendered for such coffee whether by miller-	The monies from the sale of coffee should be channeled to the farmers' account at the society level where the payment calculation request (PCR) is done, and farmers paid their dues. Being paid directly by the DSS is not good for the	The amendment is upheld because payment by the DSS to the individuals bank account will promote efficiency and hasten farmers' payments after the sale of the coffee.	To avoid delay in disbursing farmers proceeds after coffee sale.

	marketers, warehousemen, auction organizers, coffee societies and factories shall be paid into their individual accounts from the direct settlement system"	cooperative movement.		
12.	Amend Regulation 25 by inserting the following new sub regulation 25(10) after the new sub regulation 25(9) to read as follow "Payments to factories or societies from the direct settlement system for operations and maintenance shall be five per centum of the value of coffee sold net of the milling, warehousing, and marketing costs.	Currently the societies charge 20% for operations and still many are struggling. Lowering it to 5% will some societies.	The society operations should continue being pegged at 20% maximum as it is right now because anything less will not be enough to run a society.	cooperatives should be encouraged to operate on approved budgets and uneconomical units should close and become collection centers.

Annex: stakeholder forums pictorial.

Figure 1: Western Region meeting, 28th December, 2021

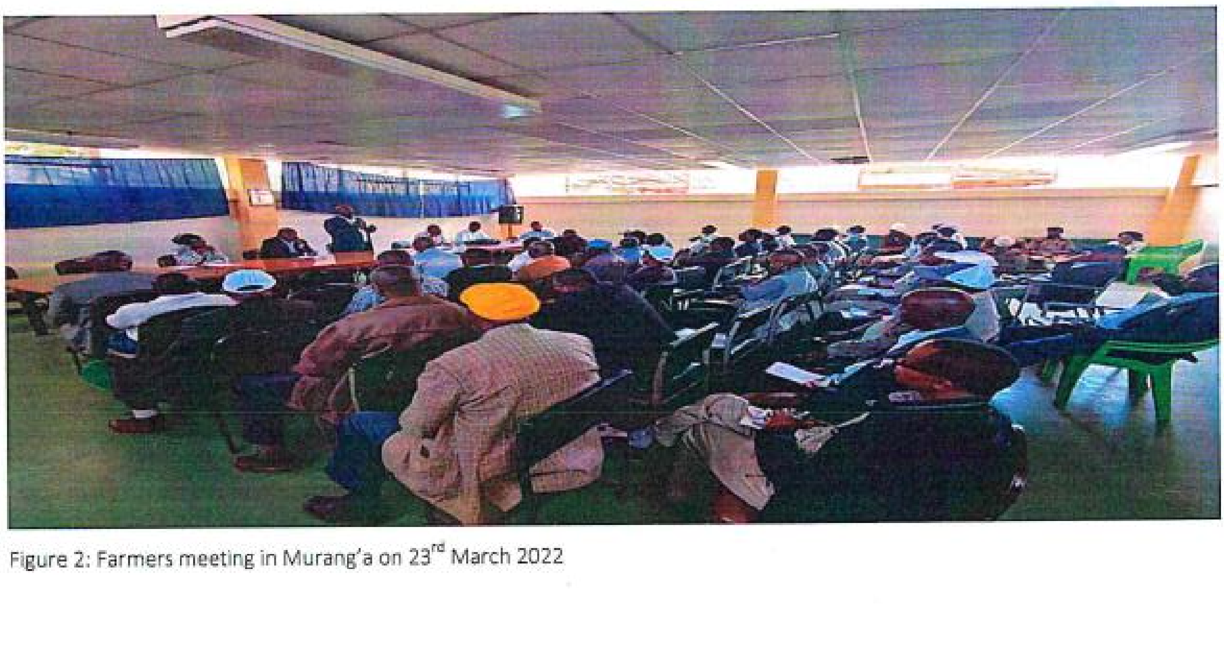


Figure 2: Farmers meeting in Murang'a on 23rd March 2022

Figure 3: farmers meeting in Machakos on 5th February 2022

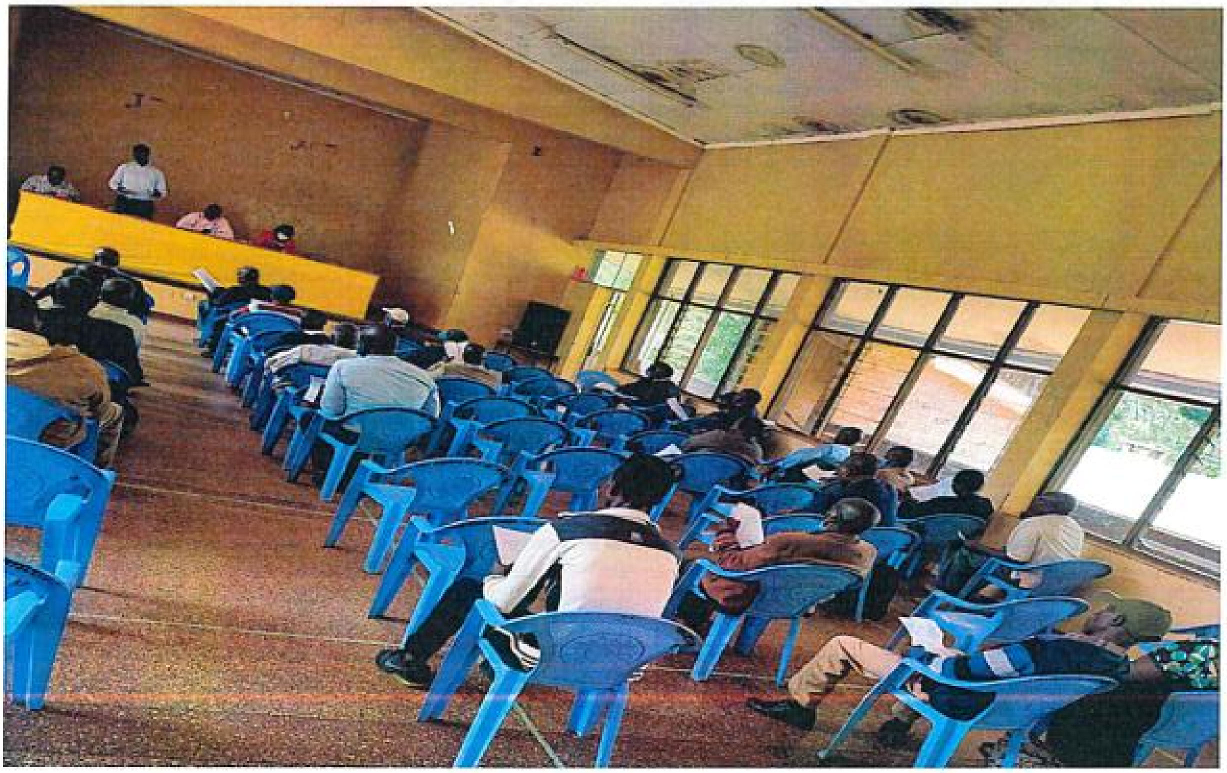


Figure 4: farmers meeting in Nyeri

Figure 5: Meru and Tharaka Nithi meeting, 7th January, 2022 Kamunde Hall

COFFEE DIRECTORATE

PUBLIC PARTICIPATION MEETING FOR NYAMIRA, KISII, MIGORI AND HOMA BAY COUNTIES ON 30/12/2020

1) INTRODUCTION

The meeting started at 10:35 am with a word of prayer and self-introduction. Thereafter the Director Coffee Directorate(D-CD) gave his opening remarks where he enumerated various government intervention that have been witnessed in the past and the current efforts on the revitalization the sub sector.
Among the issues highlighted on government interventions were as follows: -

i. cherry revolving fund with New KPCU Plc,
ii. coffee revitalization program through the world bank funding,
iii. One (1) billion fertilizer subsidy program which is being worked on for roll out.

2) THE CROPS (COFFEE)(GENERAL)(AMENDMENT) REGULATIONS, 2021

The stakeholders were taken through the **Crops (Coffee)(General)(Amendment) Regulations, 2021** by highlighting the reform journey ending up to where and reason for the agenda of the day. Parts of the milestone attained on reforms include the national task force report on the revitalization of the coffee sector which came up with an eight (8) point pillars for reforms including legal reforms. This culminated in the Crops (Coffee)(General)Regulations 2019.

3) PLENARY FEEDBACK

After the presentation, farmers were invited to an open plenary where they gave their views on the proposed reforms as follows: -

a. The document fails to indicate whether the grower- miller has a pulping station and needs clarification
b. The agenda seemed to be only about regulating the industry but not to grow the industry thus no clear direction on where the government is taking the industry and specifically the farmer. He proposed that the document should include growth efforts like the guaranteed minimum return (GMR), agenda on the youth, management of the industry at the local level on areas like milling, value addition, etc. in a rejoinder, it was clarified that secondary processing is also called milling and a preamble will be included on the objective of the regulations capturing the promotion of domestic consumption through local processing of

coffee under the guidance of the Coffee Research Institute (CRI) in order to grow local consumption of coffee. It will also capture matters to do with grinding, packaging and consumption while recognizing local processing by the small people who cannot afford the big machines.

c. Farmers with 5 acres are categorized as estates instead of small holders which is only limited to cooperative society members leading to marginalization.

d. Split of factory as a cooperative, will be problematic because people will agitate for splits looking for leadership positions

e. Initially the PSL required 5 acres and above but these days even people with one acre are getting a PSL and this should be checked before it messes up the industry by bringing chaos.

f. The county governments have abdicated their role in coffee and far,ers do not feel them. For instance, the county government has an annual allocation in the budget for coffee which has never reached the farmers.

g. The 5 % cooperative commission is too little to run the society. As things stand now, the 20% is already inadequate so reducing it will mean societies closing. The farmers proposed 30 % like in the Tea sector noting that tea is even bigger than coffee.

h. Hawking of coffee has been a problem instigated by a certain mzungu who is buying coffee in both Nyamira and Kisii counties from the factory gates and thus killing the societies.

i. To help societies the government should supply the coffee seedlings to plant so that there is enough coffee in the country,

j. Farmers need subsidized inputs especially fertilizers whose prices have skyrocketd beyond the reach of most farmers forcing farmers to do without any inputs leading to low production.

k. Society splits is good in some societies which have many factories where they experience greater wastage compared to planters and this should be upheld. This is further supported by the fact that when it comes to payments, factories pay differently and only the 20% contribution that keeps them together. However, the county government should regulate formation of single factory societies taking into consideration the catchment area and production.

l. On the merging of functions of milling and marketing, the farmers felt that the two roles should be separated and maintain the status quo for transparency.

m. The DSS should pay money to the cooperative member accounts for onward disbursement to the farmers and not to the individual farmers.

n. The auction organizer should be led by neutral institutions such as the coffee board and other similar and neutral agencies to reduce the financial burden on the farmers.
o. On the one third gender in the societies is difficult to achieve because elections of Directors is a very competitive process and men will not allow women to win seats. They proposed that the government considers co-option for women.

p. The tenure of office for management committee members should be rotational so that one person can retire and take a different seat.

q. The procurement of miler marketer should be left to the committee instead of the proposed method of members at an AGM.
r. The government should let the societies choose their DSS instead of choosing the Cooperative bank for them

Farmers' meeting in Nyamira County.

30/12/2021

AGRICULTURE & FOOD AUTHORITY

COFFEE DIRECTORATE

STAKEHOLDERS CONSULTATIVE MEETINGS ON THE CROPS (COFFEE) (GENERAL) (AMMENDEMENT) REGULATIONS 2021 FOR COFFEE PRICES STABILIZATION

VENUE: KBT Voc. Rehabilitation Centre **COUNTY:** Baringo **DATE:** 31/12/2021

NO	NAME	DESIGNATION (CO-OPERATIVE SOCIETY/ESTATE)	TELEPHONE NO.	ID/NO	AMOUNT	SIGNATURE
	John K. Kiptallam	Member	0725536006	16063109	2000/-	[illegible]
	Moses Kertany Koros	〃	0720114206	11840377	2000/-	[illegible]
	Reuben Rotich Chepchieng	〃	0727763987	4548282	2000/-	[illegible]
	George K. Amge	〃	0724780613	9862645	2000/-	[illegible]
	John K. Kipsang	〃	0720078302	20236344	2000/-	John K
	Paul K. Churchir	〃	0727390003	45048476	2000/-	[illegible]
	John Kimalit	〃	0726282538	22528076	2000/-	[illegible]
	Patrick Tallam	〃	0724954762	9778594	2000/-	[illegible]
	Daniel K. Kipsoi	〃	0710212468	11840270	2000/-	[illegible]
	Alex Yatich	〃	0727848551	21023609	2000/-	[illegible]

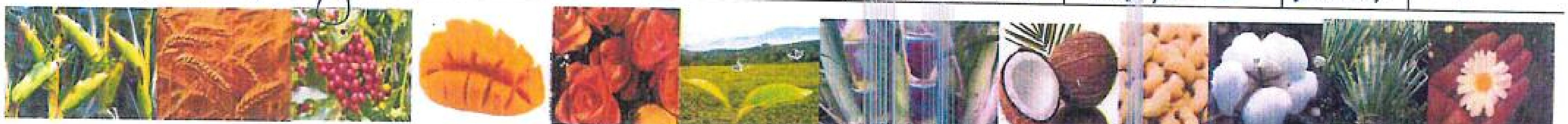
AGRICULTURE & FOOD AUTHORITY

COFFEE DIRECTORATE

STAKEHOLDERS CONSULTATIVE MEETINGS ON THE CROPS (COFFEE) (GENERAL) (AMMENDEMENT) REGULATIONS 2021 FOR COFFEE PRICES STABILIZATION

VENUE: KBT Vocational Rehabilitation Centre **COUNTY:** Baringo **DATE:** 31/12/2021

NO	NAME	DESIGNATION (CO-OPERATIVE SOCIETY/ESTATE)	TELEPHONE NO.	ID/NO	AMOUNT	SIGNATURE
	Haron K. Cherogony	Coop member	0724875813	00336599	2000/=	Hannah
	Solomon K. Cheptum	"	0729667079	7076995	2000/=	Solomon
	Jacob Lengoro	"	0792817747	22621808	2000/=	[illegible]
	Samson Cheragon	"	0726473649	12853355	2000/=	[illegible]
	Kimengich K. Kipsaniya	"	0723632640	11378417	2000/=	[illegible]
	Jacob C. Ciakilaw	"	0722806600	16112262	2000/=	Jelaklaw
	Haron K. Chepkalam	Member	0791299015	0339654	2000/=	[illegible]
	Joel C. Kiptala	Coop. member	0728139693	2340029	2000/=	[illegible]
	Laban K. Kale	"	0716906484	0602528	2000/=	[illegible]
	Chelol Kaptum Julius	"	0713785705	0339003	2000/=	Cheptum



AGRICULTURE & FOOD AUTHORITY

COFFEE DIRECTORATE

STAKEHOLDERS CONSULTATIVE MEETINGS ON THE CROPS (COFFEE) (GENERAL) (AMMENDEMENT) REGULATIONS 2021 FOR COFFEE PRICES STABILIZATION

VENUE: KBT Vocational Rehabilitation Centre **COUNTY:** Baringo **DATE:** 31/12/2021

NO	NAME	DESIGNATION (CO-OPERATIVE SOCIETY/ESTATE)	TELEPHONE NO.	ID/NO	AMOUNT	SIGNATURE
	Wesley Korir	Member	0729439801	21424764	2000/=	[signature]
	Justus Rotich	Coop	0724349621	11847798	2000/-	Rotich
	Grace J. Rono	Member	—	14720043	2000/-	Gr
	Stanley K. Lelkufon	Member	0711167558	1098851	2000/=	SKL
	Betty S. Kirambei	Coop	0728431674	4149955	2000/-	Bamo
	Francis K. Tallam	Member	0721287672	10743155	2000/=	F.K.Tallam
	Eric Cheruiyot	"	0788491055	0487280	2000/=	ECh,
	Lucy Jerono Kurui	"	0710804496	20107798	2000/=	L.Kurui
	Esther K. Kimaguit	"	0722695028	11847190	2000/=	[signature]
	Joseph Ntaba Cherchir	"	0722278634	4013837	2000/=	J.Kuchir

AGRICULTURE & FOOD AUTHORITY

COFFEE DIRECTORATE

STAKEHOLDERS CONSULTATIVE MEETINGS ON THE CROPS (COFFEE) (GENERAL) (AMMENDEMENT) REGULATIONS 2021 FOR COFFEE PRICES STABILIZATION

VENUE: KBT Vocational Rehabilitation Centre **COUNTY:** [illegible] **DATE:** 31/12/2021

NO	NAME	DESIGNATION (CO-OPERATIVE SOCIETY/ESTATE)	TELEPHONE NO.	ID/NO	AMOUNT	SIGNATURE
	Isaac K. Kiplagat	Member	0703251300	13065930	200/-	HKf
	Sammy K. Kurui	"	0724776076	9778790	200/=	SKK
	Kipkoech Kimei	"	0716360388	23045171	200/-	KKimei
	William K. Chepseba	"	0727117358	3557188	200/-	Chepseba
	Henry K. Kiprop	"	0716917088	0929934	200/-	[illegible]
	Shadrack Kipkurui	"	0720118419	2387371	200/-	[illegible]
	Eunice Komen	"	0719603593	1307820	200/-	[illegible]
	Christopher Chemnyot	"	0723693808	23952532	200/-	[illegible]
	Kiplagat K. Marmet	"	0725071611	3556613	200/-	[illegible]
	Stephen K. Cheburet	"	0722699031	9778693	200/=	SKChe

AGRICULTURE & FOOD AUTHORITY

COFFEE DIRECTORATE

STAKEHOLDERS CONSULTATIVE MEETINGS ON THE CROPS (COFFEE) (GENERAL) (AMMENDEMENT) REGULATIONS 2021 FOR COFFEE PRICES STABILIZATION

VENUE: KBT Vocational Rehabilitation Centre **COUNTY:** Baringo **DATE:** 31/12/2021

NO	NAME	DESIGNATION (CO-OPERATIVE SOCIETY/ESTATE)	TELEPHONE NO.	ID/NO	AMOUNT	SIGNATURE
	Desmond Chesire	Estate_Nemo	0724521822	22818253	2000/=	Dchesire
	Alice Chirchir	Famer	0707483418	21607805	2000/=	Achirchir
	Aslech Yatich	Coop	0720283028	1099822	2000/=	Yatich
	Paulina Ngetich	Member	0712497138	9492136	2000/=	Pngetich
	Elizabeth Kiptum	Member	0703177525	26970889	2000/=	EK
	Sarah J. Taina	SCCDO	0720451433	20101600? Pno	2000/=	[illegible]
	Kenolds Ngetich	Farmer	0727846814	10764805	2000/=	[illegible]
	Chirchir Chelagat	Coop	0704456306	1370615	2000/=	Chirchir
	Milcah Keitany	Coop	07074200[illegible]	6104496	2000/=	Keitany
	Laban Sirma	Farmer	0791382670	107654954	2000/=	[illegible]

AGRICULTURE & FOOD AUTHORITY

COFFEE DIRECTORATE

STAKEHOLDERS CONSULTATIVE MEETINGS ON THE CROPS (COFFEE) (GENERAL) (AMMENDEMENT) REGULATIONS 2021 FOR COFFEE PRICES STABILIZATION

VENUE: KBT Vocational Rehabilitation Centre **COUNTY:** Baringo **DATE:** 31/12/2021

NO	NAME	DESIGNATION (CO-OPERATIVE SOCIETY/ESTATE)	TELEPHONE NO.	ID/NO	AMOUNT	SIGNATURE
	Isaac Toroitich	Coop Member	0724367311	~~13370632~~ 13370632	2000/-	[signature]
	Symon Kipchilis	Farmer	0719225530	13070335	2000/-	Symon
	Musa Joel Chebet	Farmer	0728401775	0485796	2000/-	[signature]
	Moses K. Cheruiyot	Estate owner	0728432889	22041060	2000/-	[signature]
	Pauline Yegon	Farmer	0726018619	0338432	2000/-	Pyegon
	Philip K. Kabutiei	Farmer	0754849987	27624873	2000/-	[signature]
	Lydia Kulei	Farmer	0721743160	2194977	2000/-	Lkulei
	Thomas Chepyegon	C Estate	0723493228	8893422	2000/-	Thomas
	Emily Kibet	Farmer	0716849393	11847845	2000/-	Ekibet
	Jennifer Chesaro	Farmer	0711339432	13070473	2000/-	Jchesaro

AGRICULTURE & FOOD AUTHORITY

COFFEE DIRECTORATE

STAKEHOLDERS CONSULTATIVE MEETINGS ON THE CROPS (COFFEE) (GENERAL) (AMMENDEMENT) REGULATIONS 2021 FOR COFFEE PRICES STABILIZATION

VENUE: KBT VOCATIONAL REHABILITATION CENTRE **COUNTY:** Baringo **DATE:** 31/12/2021

NO	NAME	DESIGNATION (CO-OPERATIVE SOCIETY/ESTATE)	TELEPHONE NO.	ID/NO	AMOUNT	SIGNATURE
	Edward Cherogony	Coop member	0722592700	0336569	2000/=	[illegible]
	Patrick Sumukwo	Farmer	0726533332	29681110	2000/=	[illegible]
	Rose Koech	Member FCS	0724660445	11427988	2000/=	RKoech
	Isaac Kandagor	Member	0724105582	12853060	2000/=	Kandagor
	Laban K. Ngetich	Member	0729263026	21750952	2000/=	Lkn
	Clement Komen	Farmer	0723432288	1371183	2000/=	[illegible]
	Julius K. Bolon	Estate owner	0722783420	6104177	2000/=	JKbolo
	Humphrey K. Chesaro	Kabaris Estate	0700111509	6630034	2000/=	HKc
	Richard Kandagor	Farmer	0715540190	1099779	2000/=	[illegible]
	Elima J. Chesire	Farmer	0727412423	6597257	2000/=	[illegible]

AGRICULTURE & FOOD AUTHORITY

COFFEE DIRECTORATE

STAKEHOLDERS CONSULTATIVE MEETINGS ON THE CROPS (COFFEE) (GENERAL) (AMMENDEMENT) REGULATIONS 2021 FOR COFFEE PRICES STABILIZATION

VENUE: KBT Vocational Rehabilitation Centre **COUNTY:** Baringo **DATE:** 31/12/2021

NO	NAME	DESIGNATION (CO-OPERATIVE SOCIETY/ESTATE)	TELEPHONE NO.	ID/NO	AMOUNT	SIGNATURE
	Reuben Kiptoo Chemtich	Estate	0725538641	0602633	2000/=	Reuch
	Shadrack Rutto	Estate Owner	0724785464	20967698	2000/-	Sitto
	Samson K. Yatich	Coop Member	0728954966	0602797	2000/-	Syatich
	Gerald Kiptui	Member	0727817131	23730344	2000/-	GK
	Reuben Chesire	Coop	0723110980	0240306	2000/-	Rcesire
	Mathew Kipkemei	Member	0707483324	1099455	2000/-	Mkemei
	Joseph K. Komen	Estate - Bitbiter	0727096066	0336170	2000/-	JKomen
	Nelson Y. Cheptoo	Coop	0729802324	0334426	2000/-	Melson
	Joan Yatich	Coop	071080??81	3309715	2000/-	Joan
	Gideon Keitany	Coop Member	0719171898	8406767	2000/-	Gideon

AGRICULTURE & FOOD AUTHORITY

COFFEE DIRECTORATE

STAKEHOLDERS CONSULTATIVE MEETINGS ON THE CROPS (COFFEE) (GENERAL) (AMMENDEMENT) REGULATIONS 2021 FOR COFFEE PRICES STABILIZATION

VENUE: KBT Vocational Rehabilitation Centre **COUNTY:** Baringo **DATE:** 31/12/2021

NO	NAME	DESIGNATION (CO-OPERATIVE SOCIETY/ESTATE)	TELEPHONE NO.	ID/NO	AMOUNT	SIGNATURE
	Charles Chepkilot	Coop	0715787597	4548113	2000/-	[illegible]
	Nathan Kiplagat	Member	0716842292	1140776	2000/-	[illegible]
	Joseph Chepkilot	Coop member	0728551090	0326942	2000/-	[illegible]
	Hillary Kechom	Coop	0707211002	23017160	2000/-	[illegible]
	John K. Chebungei	Coop	0724144887	4544638	2000/-	[illegible]
	Mary K. Kipsang	Coop	0727430410	5444210	2000/-	[illegible]
	Jackson Koman Rotto	Member	0720207503	4535307	2000/-	[illegible]
	Raphael Kangogo Ngeiwa	Member	0717622558	4558876	2000/-	[illegible]
	Francis K. Chirchir	Coop	0729092473	18 35207	2000/-	FKC.
	Joseph K. Chemkoh	Member	0714658816	0487016	2000/-	[illegible]

AGRICULTURE & FOOD AUTHORITY

COFFEE DIRECTORATE

STAKEHOLDERS CONSULTATIVE MEETING ON THE CROPS (COFFEE)(GENERAL)(AMENDMENT) REGULATIONS 2021 FOR COFFEE PRICES STABILIZATION

VENUE: Kerio Valley Rehabilitation Hall **COUNTY** Baringo **DATE:** 31/12/2021

NO	NAME	DESIGNATION	EMAIL	TEL NO.		SIGNATURE
1.	GLADYS CHERUIYOT	FARMER	Jenuu1991@gmail.com	0723872892		
2.	AMOS K MERGECH	FARMER	amoskuskenya86@gmail.com	0721938789		
3.	LEAH CHERUTICH	FARMER	Chentich1973@g.mail.com	0726621137		
4.	WILSON C BARGINDO	POY FCS FARMER		0710689390		
5.	JOSEPH C BARKOTON	KIPSARAMAN ESTATE CHAIRMAN	Josephbarkoton@gmail.com	0725942696		
6.	Fr. XAVIA KAPSOWE	KIPSARAMAN CATHOLIC MISSION ESTATE	dkapsowe76@gmail.com	0722578671		
7.	JOSEPH E. CHEBOIYO	SOIYO ESTATE	Josephcheboiyo@gmail.com	0793245990		
8.	MATHEW K. KIPKEMOI	FARMER	Mathewp86@gmail.com	0707483424		
9.	CHERUIYOT SIALAH	Farmer	sialahkiprocch@gmail.com	0722-594227		
10.	RUTTO CHEMAIN	FARMER	evanrutto1995@gmail.com	0708406152		

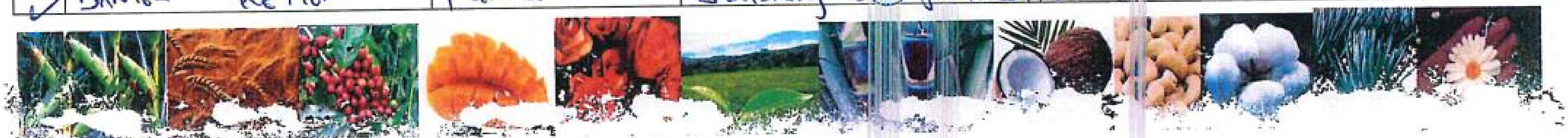
AGRICULTURE & FOOD AUTHORITY

COFFEE DIRECTORATE

STAKEHOLDERS CONSULTATIVE MEETING ON THE CROPS (COFFEE)(GENERAL)(AMENDMENT) REGULATIONS 2021 FOR COFFEE PRICES STABILIZATION

VENUE: Kimwetaicon Hall COUNTY Baringo DATE: 31/01/2021

NO	NAME	DESIGNATION	EMAIL	TEL NO.		SIGNATURE
1.	DENNIS ROTICH	KAWA MGT CONSULTANCY / FARMER	DKIPROP21@GMAIL.COM	0714110715		
2.	Barak kibet kurui	Mauwei coffee farm	markyegi@gmail.com	0792163593		
3.	Emmanuel Kibet Kandagor	Bokorin coffee farmers	emanuelkendagor74@gmail.com	0727039350		
4.	Hillary C. Aydsei	Turgut estate	Cahillary@gmail.com	0713554390		
5.	Enock K. Kesume	Secretary Kapicawa FCS Ltd	@gmail.com Kapicawa Sentum FCS Limited	0729229401		
6.	Stephen K. Chonjo	Kituro FCS Secretary	schonjo@yahoo.com	0722985196		
7.	WILLY K. CHEROGONY	COFFEE EXTENSION CONSULTANT	willycherogony@yahoo.com	0727325892		
8.	Vincent Abuje	CDA - Baringo	cdabaringocounty@gmail.com	0725670520		
9.	CALEB KIPROP CHESEREM	Sitotwet Farmers	calebkipropcheserem@gmail.com	0798933664		
10.	DANIEL KETION	Farmer	Dantommy12@gmail.com	0729760500		



AGRICULTURE & FOOD AUTHORITY

COFFEE DIRECTORATE

STAKEHOLDERS CONSULTATIVE MEETING ON THE CROPS (COFFEE)(GENERAL)(AMENDMENT) REGULATIONS 2021 FOR COFFEE PRICES STABILIZATION

VENUE: COUNTY BARINGO DATE: 31/12/2021

NO	NAME	DESIGNATION	EMAIL	TEL NO.		SIGNATURE
1.	ANNALYNE KIPKULEI	KAMELIL ESTATE	annalynekipkulei@gmail.com	0710951394		
2.	THOMAS CHEROP	TIRIONY FCS VICE CHAIRMAN	Thomascherop2021@gmail.com	0720564805		
3.	WILLIAM B. LELGO	CHAIRMAN BCCU	— — — —	0723219604		
4.	PATRICK TALLAM	Secretary TIESON FCS	Tallam65 Tallamee1965	0724954762		
5.	EDWIN CHEBON	WAEO-KAPROPITA	edwinkchebon@gmail.com	0704066911		
6.	MARTIN K. SYAKILO	TUIYOEK ESTATE	BOX 41 KABARNET	0720907800		
7.	NICHOLAS K. KOSGEI	WAEO KABARNET	Nichkoskei@gmail.com	0711261741		
8.	SABENSHA ERWATA	TUIYOEK ESTATE	BOX 115 KABARNET	0726432055		
9.	GIDEON KETTANY	CHAIRMAN	—	0719171898		
10.	ARON CHEROGONY	SECRETARY KOLINGOT	—	0724875213		

AGRICULTURE & FOOD AUTHORITY

COFFEE DIRECTORATE

STAKEHOLDERS CONSULTATIVE MEETING ON THE CROPS (COFFEE)(GENERAL)(AMENDMENT) REGULATIONS 2021

VENUE: **COUNTY** Baringo **DATE:** 31/12/2021

NO	NAME	DESIGNATION	EMAIL	TEL NO.		SIGNATURE
1.	BISHOP WILLIAM CKITILIT	BCCU-SOVEREIGNTY CHAIRMAN. CSITOTWET F.C.S LTD	WCKitilit@gmail.com	0721592258	31/12/2021	
2.	JOSEPH K. KIGEN	AG. CHAIRMAN KABIMOI CO.OPS		0723429726	31/12/2021	
3.	RICHARD K. CHELANGAT	CHAIRMAN	richard kaptum@gmail.	0723 966897.		
4.	Simon K. Kiprop	SECRETARY	TIAN FCS	0797397738		
5.	Stephen Kiptala	Secretary	Aiyebo FCS Ltd	0795467589	31/12/.	
6.	Isaiah Kangogo	chairman	Ngetmoi FCS LTD	0714518994		
7.	Isaac K. CHEMINGET	Chairman	KABARTONJO FCS LTD	0723837988		
8.	Musa Cheptumo	Treasurer	MOSOP BIDII FCS	0727336337		
9.	David Chiptoo	Treasurer	Ketoro FCS LTD	0724497774		
10.	ENOCK LOISA	KAWA MANAGEMENT	loisarotich@gmail.com	0721637769	3.	

AGRICULTURE & FOOD AUTHORITY

COFFEE DIRECTORATE

STAKEHOLDERS CONSULTATIVE MEETING ON THE CROPS (COFFEE)(GENERAL)(AMENDMENT) REGULATIONS 2021

VENUE: COUNTY DATE:

NO	NAME	DESIGNATION	EMAIL	TEL NO.		SIGNATURE
1.	Solomon K. Cheptumo	Treasurer	Kiliugot F.C.S. LTD	0729267079		
2.	Joseph R Kimeuwe	Chairman	Aiyebo FCS Ltd	0710263489.		
3.	JACOB – LAGILAN	TREASURER	"	0722906620		
4.	CATHERINE KIPTUM	MEMBER	Kiptum@gmail.com	0712370060		
5.	NURIAH SHAABAN	Member	shabannuria@gmail.com	070058547		
6.	LYDIAH JEBET	FArmer	lydia@gmail.com	0714 855623		
7.	KENNETH LANGAT	FARmer	Keneth@gmail.com	0708194908		
8.	Julius Kiplimo Kipkoech	farmer	Julikoech@yahoo.com	0722966541		
9.	Benjamin Kiptoo	Field officer	Tugen hills	0723223263		
10.						

KABARNET VOCATIONAL REHABILITATION CENTRE

No. 1399 P.O. BOX 115-30400 KABARNET.

RECEIPT

Date: 31. 12. 2021

Received from (Name) Coffee Directorate

the sum of shillings Twenty Eight Thousands Shillings only

Being payment of Snacks, P.A. System, water & Hire of Hall

kshs. 28,000/=

Cash/Cheque No:

With Thanks

28,000/=

FOR: KABARNET VOCATIONAL REHABILITATION CENTRE

9F64252446D946DE2B674326B26AEDAA6134D4AC 0191

SOI GM SUPERMARKET
P.O BOX 298-30400 KABARNET
PIN: A002959403D VAT:01472665Q
KABARNET KENYA
0721311543

Sales Receipt

Transaction #: 313..
Date: 12/31/2021 Time: 11:57:36 AM
Cashier: 3 Register #: 1

Item	Description	Amount
61611007	Rosy sanitizer spray 60ml	130.00
61611007	Rosy sanitizer spray 60ml	130.00
150	Teepee ball pen 20 @ 10.00	200.00

Sub Total	396.55
VAT	63.45
Total	460.00
CASH Tendered	500.00
Change CASH	40.00

K-POINT PRINTERS & COMPUTERS

Dealers in: Printing, Lamination, Photocopy, Videography, Computer Accessories, General Electronics

CASH SALE

Tel: +2547 26346 871/ 0723282070

M/S Coffee Directorate Date 31/12/21

Qty	Description	@	Kshs	Cts
29	Printing	10	290	
870	Photocopy.	3	2610	
	2900#			

E.&.O.E No. 818 TOTAL 2900

Goods once sold will not be re-accepted

CASH SALE

KBSL KETBONET BOOKSTORES LTD.

P.O. Box 608-30400, KABARNET. TEL: 0798 925 195
Email: kbs12015@gmail.com

Date: 31/12/2021

M/s.

Qty	Description	@	Kshs	Cts
2	Shorthand		150	-
	150/-			

E.&.O.E No. 25132 TOTAL 150 -

Goods once sold are not re-acepted

PIN: P051187895U VAT.

026894 19132
31-12-21
LEGAL RECEIPT
KRA/ETR 0032006
004490
PT013566
00013566

K-POINT PRINTERS & COMPUTERS

Dealers in: Printing, Lamination, Photocopy, Videography Computer Accessories, General Electronics

CASH SALE

Tel: +2547 26346 871/0723282070

M/S Coffee Directorate Date 31/12/21

Qty	Description	@	Kshs	Cts
435	Photocopy	3	1305	
	1305#			

E.&.O.E No. 819 TOTAL 1305

Goods once sold will not be re-accepted.

AGRICULTURE & FOOD AUTHORITY

COFFEE DIRECTORATE

(1)

STAKEHOLDERS' ENGAGEMENT ON THE CROPS(COFFEE)(GENERAL)(AMENDMENTS) REGULATIONS, 2021 FOR PRICE STABILIZATION

VENUE: EDUCATION HALL-GATUNDU **COUNTY:** KIAMBU **DATE:** 4/1/2022

NO	NAME	DESIGNATION (CO-OPERATIVE SOCIETY/ESTATE)	TELEPHONE NO.	ID/NO		SIGNATURE
1.	Margaret [illegible]	[illegible] Farm	0723494288	7345219		[illegible]
2.						
3.						
4.						
5.						
6.						
7.						
8.						
9.						
10.						

(2)

AGRICULTURE & FOOD AUTHORITY

COFFEE DIRECTORATE

STAKEHOLDERS' ENGAGEMENT ON THE CROPS(COFFEE)(GENERAL)(AMENDMENTS) REGULATIONS, 2021 FOR PRICE STABILIZATION

VENUE: EDUCATION HALL – GATUNDU **COUNTY:** KIAMBU **DATE:** 04/01/2022

NO	NAME	DESIGNATION (CO-OPERATIVE SOCIETY/ESTATE)	TELEPHONE NO.	ID/NO		SIGNATURE
1.	Enosh O. Akuma	D – CD	0723443187	CBK 1581		
2.	FLORIDAH KAGENDO	CROPS OFFICER – GATUNDU SOUTH	0720473145	21163734		
3.	BERNARD GICHOVI	AFA – COFFEE DIRECTORATE	0721967785	1092823		
4.	George Rimberi	AFA – COFFEE DIRECTORATE	0733713535	7742969		
5.	ESTHER KIMANI	AFA – CD	0722691388	11606595		
6.	JACKLINE NYAGAHU	AFA – CD	0742774847	AFA – 96		
7.						
8.						
9.						
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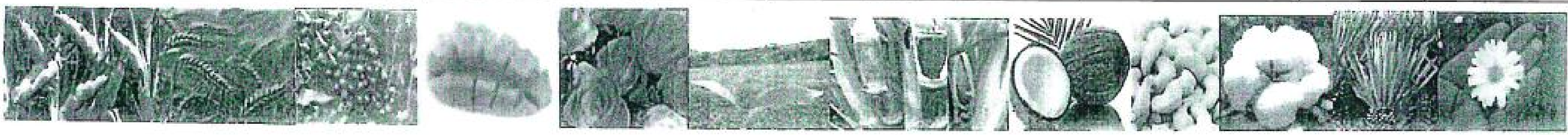

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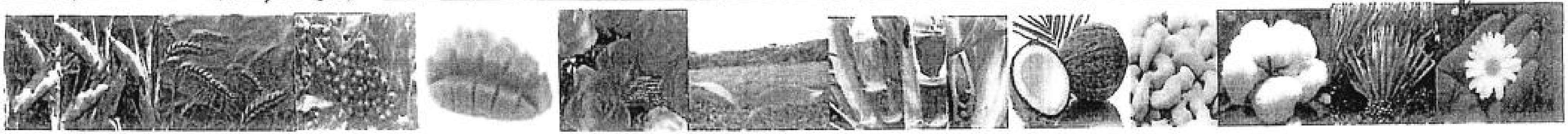
AGRICULTURE & FOOD AUTHORITY

COFFEE DIRECTORATE

STAKEHOLDERS' ENGAGEMENT ON THE CROPS(COFFEE)(GENERAL)(AMENDMENTS) REGULATIONS, 2021 FOR PRICE STABILIZATION

VENUE: EDUCATION HALL – GATUNDU **COUNTY:** KIAMBU **DATE:** 04/01/2022

NO	NAME	DESIGNATION (CO-OPERATIVE SOCIETY/ESTATE)	TELEPHONE NO.	ID/NO		SIGNATURE
1.	MILKA NJERI KIMANI	GITWE FCS	0716164411	28690073		
2.	GATHAIN HIUGUNU	MAREGA FARM	0733687528	811640		
3.	GEORGE NYORO	SAKIM FARM	0723172444	0085263		
4.	Kamau Gachanja	Magomano society Warugumo Farm	0720285527	24203432		
5.	Simon PETER	BOMA FARM	0724441451	26893059		
6.	P.M. MBUCHO	MUMBU FARM	0717435216	3107516		
7.	FRANCIS K. NGUGI	KIAGAGI	0720483098	1019270		
8.	MIRIAM njeri	TATU ESTATE	0714511928	27598447		
9.	Peter Ngugi	Rurii estate	0792818832	30449554		
10.	JOHN K KIMANI	M.J. KIMYA FARM	0722518661	1274823		



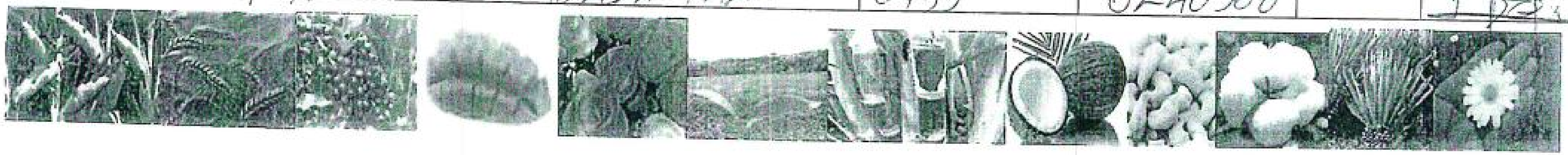
AGRICULTURE & FOOD AUTHORITY

COFFEE DIRECTORATE

STAKEHOLDERS' ENGAGEMENT ON THE CROPS(COFFEE)(GENERAL)(AMENDMENTS) REGULATIONS, 2021 FOR PRICE STABILIZATION

VENUE: EDUCATION HALL - GATUNDU **COUNTY:** KIAMBU **DATE:** 04/01/2022

NO	NAME	DESIGNATION (CO-OPERATIVE SOCIETY/ESTATE)	TELEPHONE NO.	ID/NO		SIGNATURE
1.	JOSEPH KIMONDE W.	TREASURER INYUKIRI	0728029340	6712711		
2.	Raphael Njoroge	New Gatukuyu Chairman	0729059629	4879551		
3.	Joyce Njoki Karu	THIRIRIKA - Manager	0720348030	10652226		
4.	Paul K Mundia	Igegania Multipurpose S.C	0712532510	11678359		
5.	Lucy Wambui Maina.	Ditto FCS Ltd	0710430023.	22835812		
6.	HENRY KURIA MUNII	KIMARATIA FCS Ltd CHAIRMAN	0721477792	5178375		
7.	David Kahuho.	Kienjeku Farm.	0722422714	6747220		
8.	Simon K. Maina	Thota F.C.S	0723 237 254	13028059		
9.	Florence Nyawira	Gathage fcs Ltd	0715683088	8649864		
10.	NDUNGU IKONYA	KIONGEREBA FARM	0733	6240568		



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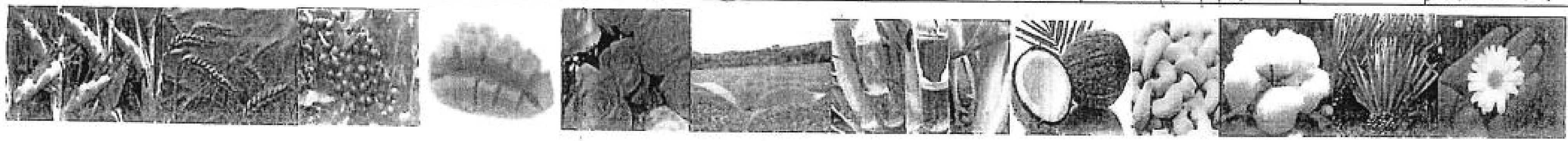
AGRICULTURE & FOOD AUTHORITY

COFFEE DIRECTORATE

STAKEHOLDERS' ENGAGEMENT ON THE CROPS(COFFEE)(GENERAL)(AMENDMENTS) REGULATIONS, 2021 FOR PRJCE STABILIZATION

VENUE: EDUCATION HALL - GATUNDU **COUNTY:** KIAMBU **DATE:** 04/01/2022

NO	NAME	DESIGNATION (CO-OPERATIVE SOCIETY/ESTATE)	TELEPHONE NO.	ID/NO		SIGNATURE
1.	CHARLES KANGETHE	MIKARI COFFEE SOCIETY	0716071752	6912207		
2.	Wanjiru Muthigii	ETHAGA	0729 07888	22302049		
3.	James Kamau Kimani	KINGS FARM	0700592831	11817553		
4.	JOSEPH WANYOIKE KIMANI	GATHAGE F.C.S.	0705605224	4873866		
5.	Jacob M Karinus	Igemba F.C.S	0710708894	9924117		
6.	Peter Murigi	MUIMBU ESTATE	0723336861	10044811		
7.	Josphat Kimani	NJ-KISA ESTATE	0714132168	6288547		
8.	SAMUEL MWAURA K	BUCHANA COFFEE SOCIETY	0725616460	23873651		
9.	Mary W. Njihia	Kimaratha F.C.S	0720354030	5362005		
10.	Grace W Macharia	Iciawei F.C.S.	0727511033	13395794		



AGRICULTURE & FOOD AUTHORITY

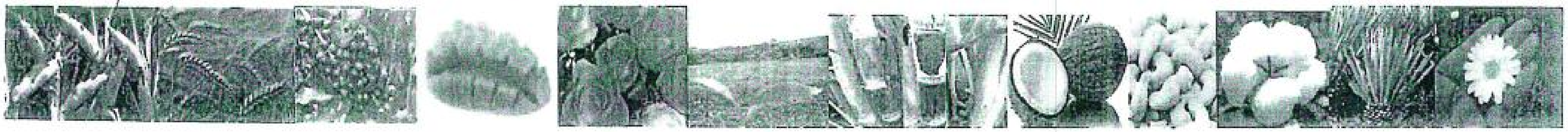
COFFEE DIRECTORATE

(6)

STAKEHOLDERS' ENGAGEMENT ON THE CROPS(COFFEE)(GENERAL)(AMENDMENTS) REGULATIONS, 2021 FOR PRICE STABILIZATION

VENUE: Education Hall Gatundu **COUNTY:** Kiambu **DATE:** 04/01/2022

NO	NAME	DESIGNATION (CO-OPERATIVE SOCIETY/ESTATE)	TELEPHONE NO.	ID/NO		SIGNATURE
1.	Daniel N. Gachima	Gitwe C-S.	0724940112	1020735		
2.	Michael G. Wandaka	Mithare F.C.S.	0722622560	3067041		
3.	Onesmus K. Gathii	Lucyowez Farm	0729381557	7552345		
4.	David N. Mwitia	Ritho FCS	0723247345	1883179		
5.	Stephen Ndabi Wainaina	Keria Estate	0723608168	8570499		
6.	Patric Kirathi Kinyanjui	Ganta Estate	0722418261	25114303		
7.	Dominic Njuguna	Dom Fm	0723120955	21197110		
8.	Stephen Kagoiyo	Thiririka FCS	0722868537	1272491		
9.	James Gathura	Mowame	0719766893	1837628		
10.	Joseph K. Machaia	Nema Farm	0722964546	3049137		



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AGRICULTURE & FOOD AUTHORITY

COFFEE DIRECTORATE

STAKEHOLDERS' ENGAGEMENT ON THE CROPS(COFFEE)(GENERAL)(AMENDMENTS) REGULATIONS, 2021 FOR PRICE STABILIZATION

VENUE: .... **COUNTY:** .... **DATE:** ....

NO	NAME	DESIGNATION (CO-OPERATIVE SOCIETY/ESTATE)	TELEPHONE NO.	ID/NO		SIGNATURE
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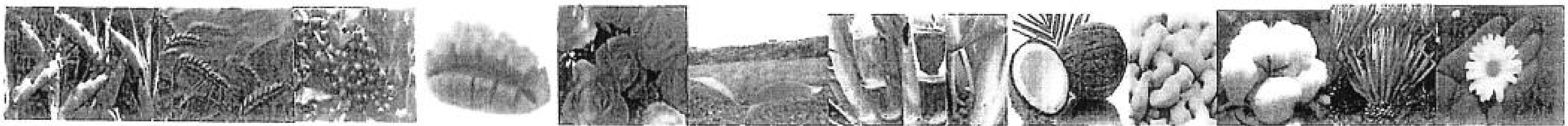

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AGRICULTURE & FOOD AUTHORITY

COFFEE DIRECTORATE

STAKEHOLDERS' ENGAGEMENT ON THE CROPS(COFFEE)(GENERAL)(AMENDMENTS) REGULATIONS, 2021 FOR PRICE STABILIZATION

DATE: 05/01/2022

VENUE: .... COUNTY: MACHAKOS

NO	NAME	DESIGNATION (CO-OPERATIVE SOCIETY/ESTATE)	TELEPHONE NO.	ID/NO		SIGNATURE
1.	James Mwovi	Iiwa Matingi FCS	0725-236787	20454615		
2.	Hillary Musyoka	Media - ODG Office of Deputy Governor	0700025977	30442561		
3.	Fred Muli	Media - Office of Deputy Governor	0722751970	31435163		
4.	Luka Musyoka	Office of Deputy Governor	0726527205	13712574		
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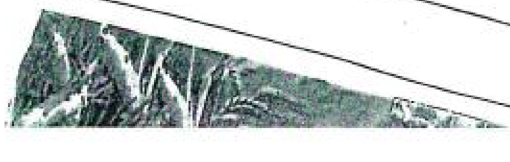

AGRICULTURE & FOOD AUTHORITY

COFFEE DIRECTORATE

(2)

STAKEHOLDERS' ENGAGEMENT ON THE CROPS(COFFEE)(GENERAL)(AMENDMENTS) REGULATIONS, 2021 FOR PRICE STABILIZATION

VENUE: .... **COUNTY:** MACHAKOS **DATE:** 05/06/2022

NO	NAME	DESIGNATION (CO-OPERATIVE SOCIETY/ESTATE)	TELEPHONE NO.	ID/NO		SIGNATURE
1.	Hon Moses Mitaa Musyoka	MCA Kangundo Central Ward Chairman Agriculture Committee	0722 394303	20318051		[illegible]
2.	Enoch Akuma	D-CD	0723443187	7376535		[illegible]
3.	Stephen Kilonzo	CO-ODG - Coffee Revitalization	0711859535	11397531		[illegible]
4.	Bernard Lucho	SORC - AFA - CD	0721917730	1092813		[illegible]
5.	George Rimbere	SOTAS - AFA - CD	0733713535	7742962		[illegible]
6.	Esther Kimani	AA-AFA - CD	0722 691382	11606595		[illegible]
7.	Jacigline Nyakangi	AFA - CD	0742774897	32863551		[illegible]
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AGRICULTURE & FOOD AUTHORITY

COFFEE DIRECTORATE

(3)

STAKEHOLDERS' ENGAGEMENT ON THE CROPS(COFFEE)(GENERAL)(AMENDMENTS) REGULATIONS, 2021 FOR PRICE STABILIZATION

VENUE: .... **COUNTY:** MACHAKOS **DATE:** 05/01/2022

NO	NAME	DESIGNATION (CO-OPERATIVE SOCIETY/ESTATE)	TELEPHONE NO.	ID/NO		SIGNATURE
1.	BENSON W MUTISYA	NGOMANO FCS	0702050104	24468328		
2.	ELIZABETH NZILANI	MCU	0726398582	21751174		
3.	PAUL N. MASILA	Musilili	0712138980	1352309		
4.	PATRICK KATINGIMA	Machakos Union.	0726575406	1867781		
5.	JOSEPH MBENGEI	Kwakunyu	0717640797	1554609		
6.	SUSAN S. NZOMO	KALILUNI FCS	0721532976	12860570		
7.	Fedrick M. Ndonye	Chairman-Kwaluko CE	0722335844	1238885		
8.	PAUL J. NDUA	Kyasan (P. NINTALA)	0721-691507	0085089		
9.	Marcellin Kimeu	Herbs estate Makueni	0724 056288	0984451		
10.	Victor Nzema	STD Media group	0795555734	1666464		

COUNTY & NATIONAL STAFF

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AGRICULTURE & FOOD AUTHORITY

COFFEE DIRECTORATE

STAKEHOLDERS' ENGAGEMENT ON THE CROPS(COFFEE)(GENERAL)(AMENDMENTS) REGULATIONS, 2021 FOR PRICE STABILIZATION

VENUE: ACK HALL - KUTUS **COUNTY:** KIRINYAGA, EMBU, NYERI & MURANGA **DATE:** 06/01/2022

NO	NAME	DESIGNATION (CO-OPERATIVE SOCIETY/ESTATE)	TELEPHONE NO.	ID/NO		SIGNATURE
1.	Ahbori Mwaniki	CEC Muranga	0721538598	12994709		
2.	James Wachihi	CEC Nyeri	0723814849	24124270		
3.	Enosh Athumra	Coffee Director Director	0723443187	7376535		
4.	Bernard Gichori	Coffee Directorate	0721917785	1092883		
5.	ELIZABETH NJOGUNA	Coffee Directorate	0720879774	5931045		
6.	SAMUEL MWAI	Coffee Directorate	0722556422	11478020		
7.	ESTHER KIMANI	AFA - CD	0722691388	11606595		
8.	Juliet Muthoni	Admin Asst ALVF	0722449211	21982296		
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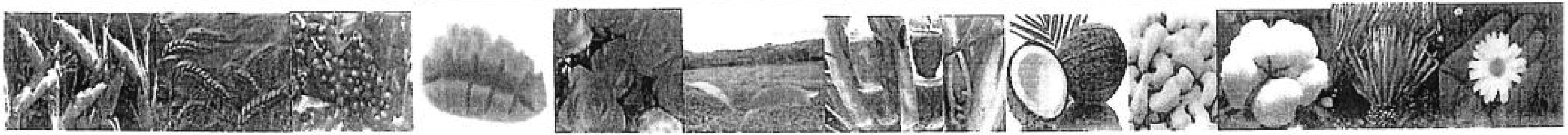

(2)

AGRICULTURE & FOOD AUTHORITY

COFFEE DIRECTORATE

STAKEHOLDERS' ENGAGEMENT ON THE CROPS(COFFEE)(GENERAL)(AMENDMENTS) REGULATIONS, 2021 FOR PRICE STABILIZATION

VENUE: ACK HALL – KUTUS **COUNTY:** KIRINYAGA, EMBU, NYERI, MURANGA **DATE:** 06/01/2022

NO	NAME	DESIGNATION (CO-OPERATIVE SOCIETY/ESTATE)	TELEPHONE NO.	ID/NO		SIGNATURE
1.	Antony Murimi	NYERI	0712453550	20070001A		[signature]
2.	Isaac Wambui	Farmer (Kirinyaga)	720827764	2005053482		[signature]
3.	James Kariithi	Owner (Driver)	0726367612	1075558		[signature]
4.	Charles Thiuri	Muranga CEC (Driver)	0711005326	32007353		[signature]
5.	Antony Mbugua	Driver	0710971059	3332508		[signature]
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AGRICULTURE & FOOD AUTHORITY

COFFEE DIRECTORATE

STAKEHOLDERS' ENGAGEMENT ON THE CROPS(COFFEE)(GENERAL)(AMENDMENTS) REGULATIONS, 2021 FOR PRICE STABILIZATION

VENUE: ACK HALL – KUTUS **COUNTY:** KIRINYAGA, EMBU, NYERI & MURANGA **DATE:** 06/01/2022

NO	NAME	DESIGNATION (CO-OPERATIVE SOCIETY/ESTATE)	TELEPHONE NO.	ID/NO		SIGNATURE
1.	JAMES GATHUA NDEGWA	OTHAYA F.C. SOCIETY	0722323238	1077369		
2.	Stephen Ndirith Nbonga	GACHATHA F.C.S	0737352698	10967177		Nbonga.
3.	ANTHONY M. GITHINJI	Sfforde	0721984110	2270819		
4.	JAMES MUNYI	KANJUU FCS	0728288764	8680444		
5.	Gladwell Wamuyu	Rwama fcs	0721682113	21246938		GWG.
6.	EPHANTUS K GACHARA	BERACCAH ESTATE	0722674082	3377092		
7.	Alex A. Kinyua	SCAO – Embu	0711730430	5092389		
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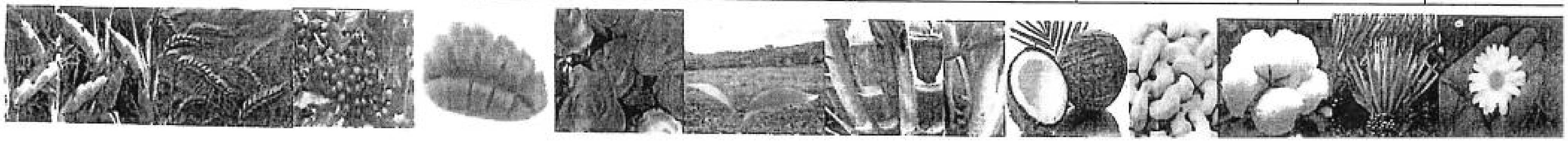

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AGRICULTURE & FOOD AUTHORITY

COFFEE DIRECTORATE

STAKEHOLDERS' ENGAGEMENT ON THE CROPS(COFFEE)(GENERAL)(AMENDMENTS) REGULATIONS, 2021 FOR PRICE STABILIZATION

VENUE: ACK HALL - KUTUS **COUNTY:** KIRINYAGA, EMBU, NYERI, MURANGA **DATE:** 06/01/2022

NO	NAME	DESIGNATION (CO-OPERATIVE SOCIETY/ESTATE)	TELEPHONE NO.	ID/NO		SIGNATURE
1.	Patrick Munyi	Karithathi F.C.S	0721569157	4694240		
2.	HENRY NJIRU	KIRINYAGA COUNTY COOP MANAGEMENT	0720180377	10160008		
3.	Richard K. Olend	" "	0722397053	6059220		
4.	NORMAN NGARI	MUTHONJU	0723779867	6449611		
5.	JOYCE WANJIKU	Rungeto FCS	0723972299	1416888		
6.	Samuel Njagi	Gatondo F.C.S Ltd	0723592615	5773242		
7.	BERNARD GICHIMU	UNIVERSITY OF EMBU	0721552757	21966767		
8.	JOHN GITHINJI	CHAIRMAN - NEW GIKARA FCS LTD	0721970133	8812916		
9.	JAMES N NGANGA	THANGAINI FCS LTD	0721923742	1285393		
10.	Stephen N. Sedan	RUGI F.C.S	0703467608	0544770		

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AGRICULTURE & FOOD AUTHORITY

COFFEE DIRECTORATE

STAKEHOLDERS' ENGAGEMENT ON THE CROPS(COFFEE)(GENERAL)(AMENDMENTS) REGULATIONS, 2021 FOR PRICE STABILIZATION

VENUE: .... **COUNTY:** MACHAKOS **DATE:** 05/01/2022

NO	NAME	DESIGNATION (CO-OPERATIVE SOCIETY/ESTATE)	TELEPHONE NO.	ID/NO		SIGNATURE
1.	Edwin Kioko	Kaiilum FCS	0728415101	5067608		
2.	Stephen [illegible]	Nduketuni [illegible]	[illegible] 3836	1117629		
3.	Musyoki Luusa	Kitwii FCS	0725683399	0914779		
4.	ALEXANDER M. KAINDI	MWATATI FCS	0700281133	1314292		
5.	VIONEI MUSYOKI	MBIUNI	0412896999	22074157		
6.	Henry M Maitaka	Kamulhaiga FCS	0728745500	9939410		
7.	Martin Malila	MCU	0720404445	1469788		
8.	FRANCIS M NDUMBU	BIDU YAKE ESTATE	0720659438	27022395		
9.	Elijah Mbeku	MUNGALA FCS LTD	0728592641	7783445		
10.	Joseph Muthe	Mungala FCS	0726606119	12859737.		

AGRICULTURE & FOOD AUTHORITY

COFFEE DIRECTORATE

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STAKEHOLDERS' ENGAGEMENT ON THE CROPS(COFFEE)(GENERAL)(AMENDMENTS) REGULATIONS, 2021 FOR PRICE STABILIZATION

VENUE: M........ COUNTY: MACHAKOS DATE: 05/04/2022

NO	NAME	DESIGNATION (CO-OPERATIVE SOCIETY/ESTATE)	TELEPHONE NO.	ID/NO		SIGNATURE
1.	JOSEPHINE NTHEI	MUUNI FCS	0722962661	1011317		
2.	Alexander Munyao	Te-lelyani Fcs ltd	0721334910	7947330		
3.	PATRICK M. ISILA	MBILINI FCS	0722323099	0701480		
4.	SAMUEL M. KATHYAKA	MASEKANI FCS LTD	0720956655	7261661		
5.	JACOB M. MANGANGI	KILALANI FCS Ltd	0722492538	0573685		
6.	JACKSON K. MASANGI	MUTHUNZUUNI FCS	0706477047	4536665		
7.	ISAAC K. KAKU	KAKUYUNI FCS	0794106798	3014097		
8.	Boniface Mwangangi	Woodvale Estate	0720410211	0320819		
9.	DAVID M KIOKO	DMKVENTURES ORGANIC FARM LTD	0707323166	5274867		
10.	Bernard Munyi	BEN-DO Kaiani	0726020187	2311543		

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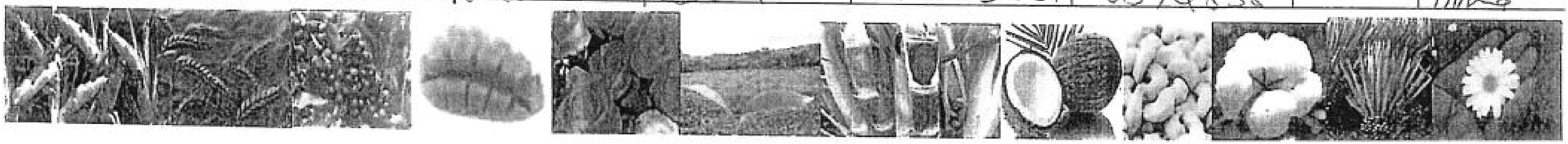
AGRICULTURE & FOOD AUTHORITY

COFFEE DIRECTORATE

STAKEHOLDERS' ENGAGEMENT ON THE CROPS(COFFEE)(GENERAL)(AMENDMENTS) REGULATIONS, 2021 FOR PRICE STABILIZATION

VENUE: .... **COUNTY:** MACHAKOS **DATE:** 05/01/2022

NO	NAME	DESIGNATION (CO-OPERATIVE SOCIETY/ESTATE)	TELEPHONE NO.	ID/NO		SIGNATURE
1.	JOSEPH KIVIVU	KASINGA FCS	0711153016	0536330		
2.	MARTHA M. KALOKI	KAKUYUNI F.C.S LTD	0728165686	11016938		
3.	ALICE K. WAMBUA	MISAKWANI FCS	0735026028	20946821		
4.	JENKINSON K. [illegible]	TANDELYANI FCS	0700655572	0320292		
5.	Andrew K KITOSTO	CEPA BF0219	0715172725	1315941		
6.	MICHAEL N. MUTUNE	MISAKWANI F.CS	0723250015	2247943		
7.	JANE MUTAVI	KITHANGATHINI FCS LTD	0711537266	10358964		
8.	BONIFACE MUABINABO	KINGO'I FCS LTD.	0719151069	1462711		
9.	Peter M Kilewe	New Mitaboni	0722641046	4835120		
10.	Martha Kiteta	New Mitaboni	0725613084	0574838		



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AGRICULTURE & FOOD AUTHORITY

COFFEE DIRECTORATE

STAKEHOLDERS' ENGAGEMENT ON THE CROPS(COFFEE)(GENERAL)(AMENDMENTS) REGULATIONS, 2021 FOR PRICE STABILIZATION

VENUE: ACK HALL – KUTUS **COUNTY:** KIRINYAGA, EMBU, NYERI & MURANGA **DATE:** 06/01/2021

NO	NAME	DESIGNATION (CO-OPERATIVE SOCIETY/ESTATE)	TELEPHONE NO.	ID/NO		SIGNATURE
1.	MARY MAINA	ESTATE	0722274964	3423242		
2.	SAMSON MURUTHI	CO-OP. (KIBIRIGWI FCS)	0722467810	21384753		
3.	Joseph M. Karabe	Kabumbu Estate	0722[illegible]	[illegible]		
4.	ALFRED MIRITI	ECECO, EMBU	0723982871	0265200		
5.	ISAAC MURIUKI [illegible]	RUNGETO FCS LTD	0726152192	24974074		
6.	RICHARD WATHOME	Kirinyaga University	0721924984	7441596		
7.	John Ngure Maina	Kibirigwi F.C.S	0713842568	22280342		
8.	JACKSON KANAMBIU	General Manager	0714203693	10146984		
9.	WIFENZIO NJERU	KIRUKUMA WG FCS	0721553011	3616318		
10.	[illegible] MUNIAH	MANAGER NGURUMBI FCS	0711493281	[illegible]		

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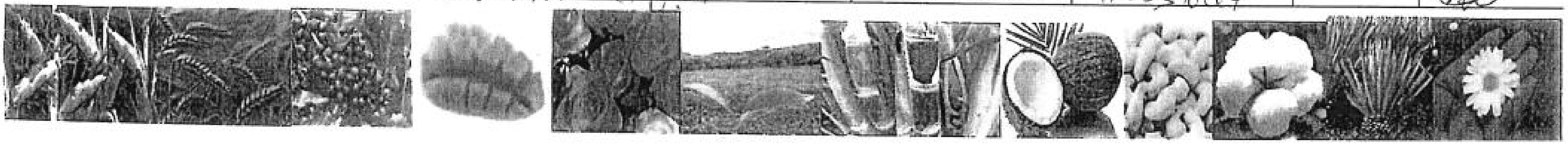
AGRICULTURE & FOOD AUTHORITY

COFFEE DIRECTORATE

STAKEHOLDERS' ENGAGEMENT ON THE CROPS(COFFEE)(GENERAL)(AMENDMENTS) REGULATIONS, 2021 FOR PRICE STABILIZATION

VENUE: ACK HALL - KUTUS **COUNTY:** KIRINYAGA, EMBU, NYERI & MURANGA **DATE:** 06/01/2022

NO	NAME	DESIGNATION (CO-OPERATIVE SOCIETY/ESTATE)	TELEPHONE NO.	ID/NO		SIGNATURE
1.	JULIUS WANERU	RWAMA FCS LTD	0704832010	8872924		
2.	GABRIEL MUTHIKE	NRUMANDI F.C.S.	0721893418	0952537		
3.	PETER M. NGINYI	INOI FCS LTD	0720710152	8796680		
4.	MAINA J. M.	IYEGO FCS	0721029632	0334059		
5.	PETERSON M NJERU	KIRINOIRI FCS	0716591393	14582956		
6.	MICHAEL M NUGSTA	KAGAKA SOUTH FCS	0726213148	786712		
7.	PAUL NJERU	KANJUU FCS	0720498036	1400562		
8.	ALLAN MUNJERU	MURICHU TCS	0724935921	0809890		
9.	HARRISON NJERU	NGIRIAMBU FCS	0728347917	23203798		
10.	Moses Maina	Rukima AFCS	0720085422	11256664		



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AGRICULTURE & FOOD AUTHORITY

COFFEE DIRECTORATE

STAKEHOLDERS' ENGAGEMENT ON THE CROPS(COFFEE)(GENERAL)(AMENDMENTS) REGULATIONS, 2021 FOR PRICE STABILIZATION

VENUE: AEK HALL – KUTUS **COUNTY:** KIRINYAGA, EMBU, NYERI & MURANG'A **DATE:** 06/01/2022

NO	NAME	DESIGNATION (CO-OPERATIVE SOCIETY/ESTATE)	TELEPHONE NO.	ID/NO		SIGNATURE
1.	JOSEPH GITONGA IRERI	KITHUNGURURU FCS	0720756005	13619953		
2.	PETER MAMU	MIIRUE FCS LTD	0721687722	3685261		
3.	DAVID GACOKI MUCIRI	KABARE FCS LTD	0720444436	7918858		
4.	FRANCIS K. KAMICHA	MUTIRA FCS LTD	0721241317	1870491		
5.	AUGUSTINE NJIRU NJUE	KANJUGU FCS LTD	0715137156	1304917		
6.	BONIFACE MUCHIRA NJIRAINI	MUTIRA FCS LTD	0707513775	25130660		
7.	PERMINUS KINYUA	KANGAITA FCS	0721658772	0331197		
8.	MAFRIC NJAGI	KIBORIO ESTATE	0722642934	0317903		
9.	Mary Wanjiru	Kanyuu F.C.S Ltd	0726357334	11515761		
10.	SAMUEL NJIRU	KAGAARI SOUTH FCS.	0713282150	10640094		

AGRICULTURE & FOOD AUTHORITY

COFFEE DIRECTORATE

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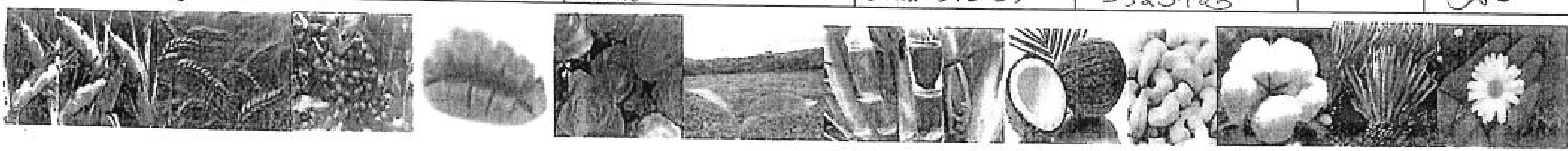
STAKEHOLDERS' ENGAGEMENT ON THE CROPS(COFFEE)(GENERAL)(AMENDMENTS) REGULATIONS, 2021 FOR PRICE STABILIZATION

VENUE: ACK HALL - KUTUS **COUNTY:** KIRINYAGA, EMBU, NYERI & MURANGA **DATE:** 06/01/2022

NO	NAME	DESIGNATION (CO-OPERATIVE SOCIETY/ESTATE)	TELEPHONE NO.	ID/NO		SIGNATURE
1.	MEGGIESHEILA WAWIRA	GAKUNDU F.C.S - MANAGER	0723174412	14430191		Wawira
2.	JOSEPH NJURUKI	MUKAMUKI FCS LTD C/M	0725551804	3759067		[illegible]
3.	NEWTON NYAGA	KIANJAGI FCS	0727812326	1303152		Nyaga
4.	ALOIS MURUTHI	KARITHATHI F.C.S	0711311059	3386276		[illegible]
5.	COSMAS KIGOMO	SARMA EST	0727314539	3125170		[illegible]
6.	JAMES NJAGI.	" "	0727314539	0319308		[illegible]
7.	STEPHEN MBUGUA G	KIWOGERAMA FCS	0724746399	12992944		[illegible]
8.	LUKA M MUKOLO	EMBU DIST COOP UNION	0720831196	1409740		[illegible]
9.	JOHN MURIUKI MARUKU	EMBU DIST- "	0720707868	3792602		[illegible]
10.	Lucy Njiru - Naina	GACIKU ESTATE	0722 813257	3523423		[illegible]



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AGRICULTURE & FOOD AUTHORITY

COFFEE DIRECTORATE

STAKEHOLDERS' ENGAGEMENT ON THE CROPS(COFFEE)(GENERAL)(AMENDMENTS) REGULATIONS, 2021 FOR PRICE STABILIZATION

VENUE: ACK HALL - KUTUS **COUNTY:** Kirinyaga, Embu, Nyeri, Murang'a **DATE:** 06/01/2022

NO	NAME	DESIGNATION (CO-OPERATIVE SOCIETY/ESTATE)	TELEPHONE NO.	ID/NO		SIGNATURE
1.	FELIX MURITHI MWAI	Inoi Farmers Coop LTD	0720327282	22603410		
2.	GEOFFREY KINYUA MUNYAGIA	Mwirua FCS LTD	0722434101	20663040		
3.	JAMES N. GITARI	THIRIKWA F.C.S LTD	0713764089	2922330		
4.	GABRIEL K. MWANGI	KAMUNUMO FCS LTD	0722326456	5936155		
5.	JOSPHAT KINYANJUI NGURE	CHAIRMAN - R/GACHARAGE	0722593776	0346724		
6.	JANE WANJA	KIANGACIWA FCS LTD	0723128177	13262361		
7.	Edwards Njeru Nagu	C/m New Ngariama FCS LTD	0711388536	3391893		
8.	Antony Murangiri	V/Chairman Kianyaga	0727320260	11260253		
9.	CYRUS CHOMBA JOHN	MANAGER BARAGWI FCS	0723250434	9302113		
10.	JOSEPH NJERU NJOGU	C/MAN GAKUNDU FCS	0716703101	5354232		

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COFFEE DIRECTORATE

STAKEHOLDERS' ENGAGEMENT ON THE CROPS(COFFEE)(GENERAL)(AMENDMENTS) REGULATIONS, 2021 FOR PRICE STABILIZATION

VENUE: ACK HALL – KUTUS **COUNTY:** KIRINYAGA, EMBU, NYERI & MURANGA **DATE:** 06/01/2022

NO	NAME	DESIGNATION (CO-OPERATIVE SOCIETY/ESTATE)	TELEPHONE NO.	ID/NO		SIGNATURE
1.	ELIJAH M. K. NYAGA	Kiman Kivuuvi FCS	0716202870	3306508		
2.	N. Kimani Gatuguta	Chairman – Baragwi FCS	0722229595	3381866		
3.	ANNET W. KARIUKI	S/manager – Kagogi North FCS	0727104299	23913695		
4.	FRANCIS GACHOKI NJUKI	Member – BARAGWI FCS.	0723441178	02310065		
5.	MOSES NJIRU IKINDU	NIKIKI FCS EMBU	0712976958	0021885		
6.	ALOIS NJIRU	NEW RUNYENJES	0710932172 ~~0710932172~~	0719992		
7.	SARMAT					
8.	FRANCIS NJAGI	NEW NGARIAMA FCS	0722339125	21582141		
9.	DAVID M. NDUNGU	NDARARUA AGRO-MKT C. S	0728311627	0044127		
10.	Francis Mutitu Njagi	Ningos fcs	0746663472	5725948		

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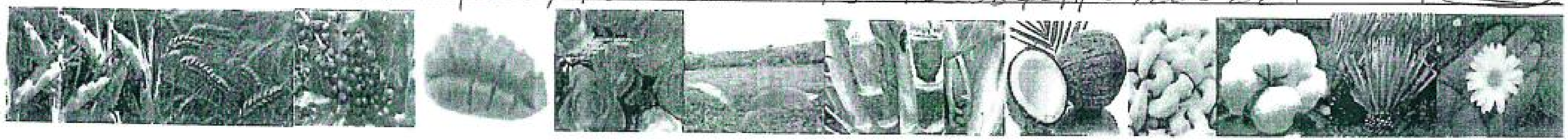
COFFEE DIRECTORATE

STAKEHOLDERS' ENGAGEMENT ON THE CROPS(COFFEE)(GENERAL)(AMENDMENTS) REGULATIONS, 2021 FOR PRICE STABILIZATION

VENUE: ACK HALL – KUTUS **COUNTY:** KIRINYAGA, EMBU, NYERI, MURANGA **DATE:** 06/01/2022

NO	NAME	DESIGNATION (CO-OPERATIVE SOCIETY/ESTATE)	TELEPHONE NO.	ID/NO		SIGNATURE
1.	SILAS N. N. NYAKI	Chairman - Thambana F.C.S	0727686799	3738747		[illegible]
2.	GEORGE C. GITHAIGA	Sec. NYERI COUNTY ESTATES	0721324671	2972146		G. Githaiga
3.	PAUL MUIGO	Treasurer NCCE	0722303073	8924158		[illegible]
4.	MOSES KIKUORI	Ag-210 GERALD'S EST.	0722296993	7440034		[illegible]
5.	PHINEAS N. NJERU	V/C KIBUGU F.C.S.	0728955990	0271133		[illegible]
6.	DAVID GACHURA	chairman Nyeri county Est	0717893612	1826530		[illegible]
7.	PETER N. K. MURAYI	C/MAN KAGAARI NORTH FCS	0721706180	3125910		[illegible]
8.	ROBINSON T. GATURU	C/MAN KABARE FCS	0722371079	3458994		[illegible]
9.	SIMON M. MURITHI	member MWIRUA FCS	0714736574	13335451		[illegible]
10.	DIONISIA M. IRERI	C/LADY NEW KIRIMIRI FCS	0725384294	0720622		[illegible]



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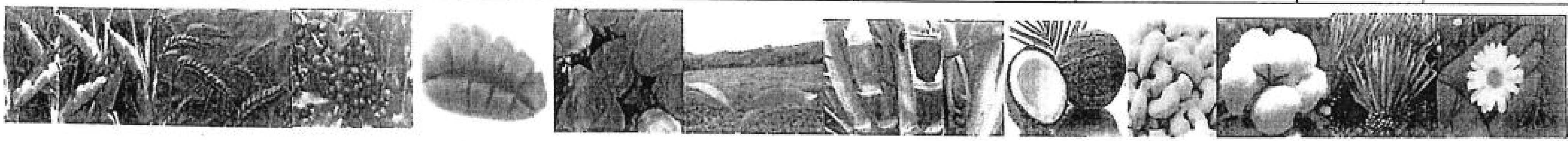
(1)

STAKEHOLDERS' ENGAGEMENT ON THE CROPS(COFFEE)(GENERAL)(AMENDMENTS) REGULATIONS, 2021 FOR PRICE STABILIZATION

VENUE: KAMUNDE HALL - MERU **COUNTY:** MERU **DATE:** 07/01/2022

NO	NAME	DESIGNATION (CO-OPERATIVE SOCIETY/ESTATE)	TELEPHONE NO.	ID/NO		SIGNATURE
1.	DAVID GIKUNDA	M.CCGU Ltd	0727502512	10730720		
2.	TIMOTHY KIMATHI	MCCCU Ltd	0716218798	0427391		
3.	ZABLON Mbaabu	MCCCU LTD	0723243311	0075975		
4.	BRIAN ADAMI	Ntimo FCS	0793863656	7670750		
5.	Robert Muthaura	M.C.C.C Ltd	0723931030	~~1315~~ 13251569		
6.	JOSEPH KITHINJI	NEW K.D.C.U	0702597827	1097124 5		
7.	MARETE MWIRICIA	MWERA ESTATE	0720971466	20115540		
8.	Mugambi Nchebere	MCCCU LTD	0721312269	5342615		
9.						
10.						



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2

STAKEHOLDERS' ENGAGEMENT ON THE CROPS(COFFEE)(GENERAL)(AMENDMENTS) REGULATIONS, 2021 FOR PRICE STABILIZATION

VENUE: .... **COUNTY:** .... **DATE:** ....

NO	NAME	DESIGNATION (CO-OPERATIVE SOCIETY/ESTATE)	TELEPHONE NO.	ID/NO		SIGNATURE
1.	Fnesh Alkuma	D-CD	0723443187	7316535		[illegible]
2.	Zakary Njemu	Ass Director Coops	0722222661	12572906		Mr.
3.	Jane Munyori	Off Adm	0724416004	23741056		[illegible]
4.	ESTHER KIMANI	AFA-CD	0722691388	11606595		[illegible]
5.	Stephen Kamau	AFA-CD	0727160650	1110896		[illegible]
6.	Bernard Gichavi	AFA-CD	0721967705	1092883		Bl.
7.						
8.						
9.						
10.						

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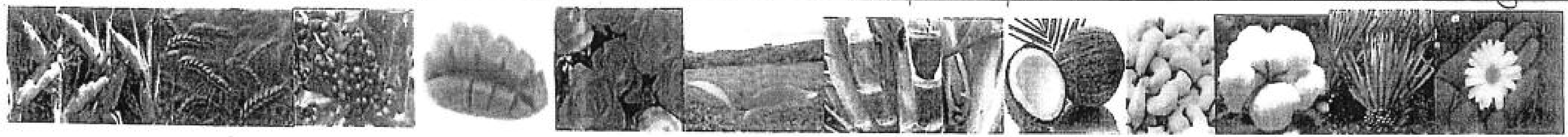
(3)

STAKEHOLDERS' ENGAGEMENT ON THE CROPS(COFFEE)(GENERAL)(AMENDMENTS) REGULATIONS, 2021 FOR PRICE STABILIZATION

VENUE: .... **COUNTY:** .... **DATE:** ....

NO	NAME	DESIGNATION (CO-OPERATIVE SOCIETY/ESTATE)	TELEPHONE NO.	ID/NO		SIGNATURE
1.	JACKSON KAVMBUTHA	farmer	0722597116	9251808		
2.	EVANS KAKIEHOO?	S/manager Karingene	0713110403	31011495		
3.	LAWRENCE KIBAARA	S/manager Kigari FCS	0725899368	13179918		
4.	JOSPHAT W. KWIRIGA	CEO	0721425401	9214987		
5.	FELIX MEME	ESTAE OWNER	0723806462	2529653		
6.	JULIUS NKANATA	CHAIRMAN MAGIARA FCS	0721637271	2370703		
7.	JULIUS MWORIA	FARMER	0710544911	6684221		
8.	PETER KUGONGERA	Committee member	0726172554	6654645		
9.	THOMAS MUKABU	Committee member	0721325020	8058016		
10.	JOHN KIATHIA	TV47	0708649057	31551590		



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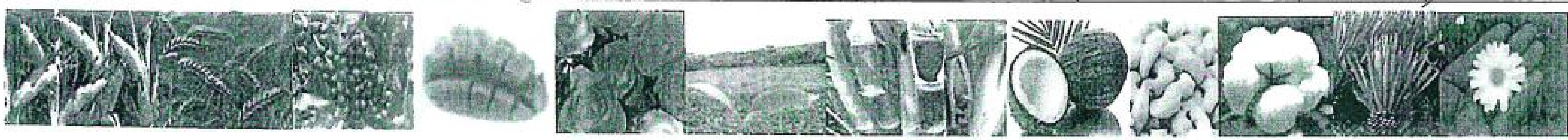
STAKEHOLDERS' ENGAGEMENT ON THE CROPS(COFFEE)(GENERAL)(AMENDMENTS) REGULATIONS, 2021 FOR PRICE STABILIZATION

VENUE: KAMUNDE HALL MERU **COUNTY:** MERU **DATE:** 07/01/2022

NO	NAME	DESIGNATION (CO-OPERATIVE SOCIETY/ESTATE)	TELEPHONE NO.	ID/NO		SIGNATURE
1.	FRANCIS WANDERI	GREEN FARM ESTATE	0712[illegible]	10332122		[illegible]
2.	Alkanteri Miogo [illegible]	MT KENYA FCS	0724332094	12406446		[illegible]
3.	STEPHEN GICHUNGE	KATHERA FCS	0727526550	11563608		[illegible]
4.	FOREMAN KINYUA	MIITINE FCS	0720969671	12885344		[illegible]
5.	JOHN MUTWIRI	MIITINE FCS LTD	0723963818	12496166		[illegible]
6.	GERALD MWIRIGI	KANJUA F.C.S	0723217461	22711658		[illegible]
7.	JASPHAT T IBURI	AMUKUI FCS LTD	0722861377	2397469		[illegible]
8.	Mercy Njeru	ITHIMBA Estate	0713753840	0119500		[illegible]
9.	STANLEY KITHURE	MIRIGAMIERU	0721656968	2369357		[illegible]
10.	JAMES MUNYA	KIANTURI F.C.S	0720785979	11487174		[illegible]



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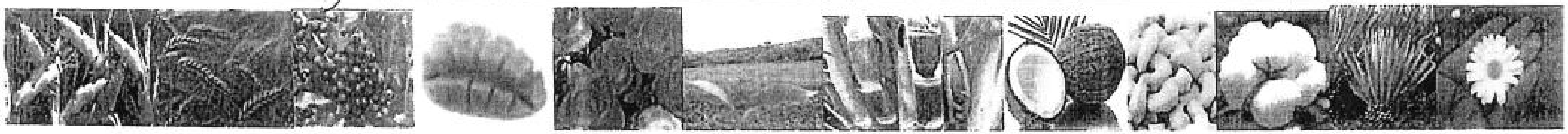
STAKEHOLDERS' ENGAGEMENT ON THE CROPS(COFFEE)(GENERAL)(AMENDMENTS) REGULATIONS, 2021 FOR PRICE STABILIZATION

VENUE: .... **COUNTY:** .... **DATE:** ....

NO	NAME	DESIGNATION (CO-OPERATIVE SOCIETY/ESTATE)	TELEPHONE NO.	ID/NO		SIGNATURE
1.	SAMSON NKINDURU	NKIKATHU ESTATE	0725263446	2472741		
2.	HENRY K MAINENGE	RUIRI FCS	0710923864	2451060		
3.	THOMAS K. GICHUGU	NTIMA. FCS	0724534745	0013353		
4.	ANTHONY MBAABU	RUIRI FCS	0724408557	26355175		
5.	Robert Mugambi	Kieg-chia Fcs	0721996181	13178602		
6.	Jimleura Njeru	AKIIMBA C.E	0723 477411	23677150		
7.	JOSEPH KOBIA	Amuku Fcs	0729565076	10971901		
8.	STANLEY MUNGORI	NTHIMBIRI FCS	0716513253	6412496		
9.	GEOFREY MWENDA	TIGANIA NORTH	0723974328	0137330		
10.	Immanuel Muthuri	Media	0740643434	39352443		



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STAKEHOLDERS' ENGAGEMENT ON THE CROPS(COFFEE)(GENERAL)(AMENDMENTS) REGULATIONS, 2021 FOR PRICE STABILIZATION

VENUE: Kamunde Hall - Meru **COUNTY:** Meru **DATE:** 07/01/2022

NO	NAME	DESIGNATION (CO-OPERATIVE SOCIETY/ESTATE)	TELEPHONE NO.	ID/NO		SIGNATURE
1.	DAVID MUTHOMI	URUKU F.C.S	0718384046	7728775		
2.	JOSEPH. MWOBI	GHAGARA. F.C.S	0710652794	10899693		
3.	FRANCIS MURITHI	GIETURACIA F.C.S	0727481635	2387820		
4.	Eustace mugendi	Kiangua FCS - LTD	0799101098	9233738 0		
5.	EDWARD GITUMA	MUKUNE ~~EST~~ FCS.	0720572717	7677444		
6.	ISAIAH KALUNYU	IGENTO F.CS LTD	0746733274	13179722		
7.	George Kaimi	KARIA FCS LTD	0713404583	10295356		
8.	Nicholas Ikathuima	Nthambiri F.C.S. LTD	0729573587	25128406		
9.	Jeremy Gitonga	KITHINO F.C.S	0726303073	11609963		
10.	CHARLES MUTWIRI	MUKARIMU ESTATE	0722324321	8985228		

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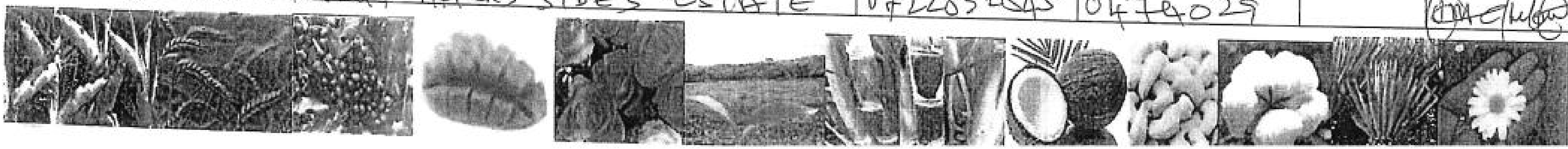
STAKEHOLDERS' ENGAGEMENT ON THE CROPS(COFFEE)(GENERAL)(AMENDMENTS) REGULATIONS, 2021 FOR PRICE STABILIZATION

VENUE: .... **COUNTY:** .... **DATE:** ....

NO	NAME	DESIGNATION (CO-OPERATIVE SOCIETY/ESTATE)	TELEPHONE NO.	ID/NO		SIGNATURE
1.	SILAS KARUCHIA	KATHERA FCS Chairman	0712643757	4936146		
2.	ANGELO M. MAGIRI	LOWER ABOGETA F.C.S	0725694890	2425819		
3.	FRANCIS MURITI	IHUKWI FCS	0720201716	7719173		
4.	CHARLES MURUGU	KATHERI FCS	0720660049	4343097		
5.	ERASTUS KIRIMI	KATHERA FCS	0775066292	1014800		
6.	CYPRIAN MWIRIGI	THAGARA FCS	0707054000	20883286		
7.	GERALD NJAGI	GIKURWA F.C.S	0720265215	9355261		
8.	DOMISIANO KIRIMI	Chamma Kigoru F.C.S	0706061674	9215962		
9.	GEORGE KIAMBATI	KAMBOYA ESTATE	0724387230	24377602		
10.	J.M. Kathurima Limbua	Hills Sides ESTATE	0722832845	0479029		



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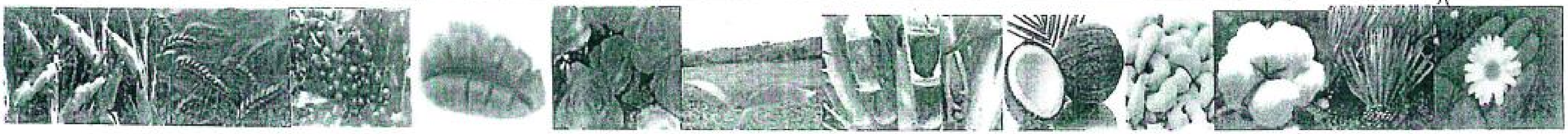
VENUE: .... **COUNTY:** .... **DATE:** ....

NO	NAME	DESIGNATION (CO-OPERATIVE SOCIETY/ESTATE)	TELEPHONE NO.	ID/NO		SIGNATURE
1.	John Mbiga	MEDIA	0728931773	25772668		
2.	Gitonga Mwirette	MEDIA	0700338536	10449545		
3.	ZAKARIA RUMUCI	KIANJURI	0729594189 ~~0276538~~	10 004538		
4.	SALESIO M. ARITHO	KIAMTUNA	0726333924	9214565		
5.	ZEPHANIAH KIRIMA	KANJAU	0712610105	13586029		
6.	Stephen Kiruiti	Ntonyiri	0726277802	3463514		
7.	GEORGE MBAABU	MUGUNA FCS	0720615258	8859848		
8.	Charles Mbaabu	Mikumbune FCS	0725723484	7010655		
9.	Anthony Miriti	Media	0726940122	30129010		
10.	Muthuri Muriuki	Media	0715642777	27943393		



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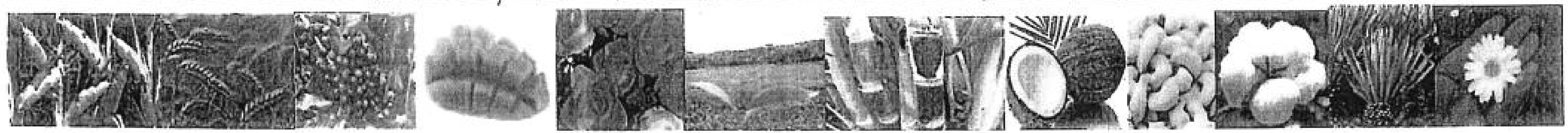
STAKEHOLDERS' ENGAGEMENT ON THE CROPS(COFFEE)(GENERAL)(AMENDMENTS) REGULATIONS, 2021 FOR PRICE STABILIZATION

VENUE: .... **COUNTY:** .... **DATE:** ....

NO	NAME	DESIGNATION (CO-OPERATIVE SOCIETY/ESTATE)	TELEPHONE NO.	ID/NO		SIGNATURE
1.	JOSHUA GITONGA	NTIMA FCS	0721899192	7794388		
2.	LINET G. NKONGE	NTIMA F.C.S - Farmer	[illegible]	[illegible]		
3.	SILAS KAMARA	Nikunu F.C.S	0796953361	2471059		
4.	Nicholas Ndereba	Kaheri	0716463930	31670147		
5.	Fridah Nkirote	Kaheri	0724344549	27970806		
6.	Eric Kirimi	Githongo Kaheri F.C.S	0702819728	33062639		
7.	Isaiah Kaberia	NEW Igembe F.C.S LTD	0720148521	13400300		
8.	Mary Kagwiria	Mi Kenya east FCS Ltd	0729246720	22051536		
9.	Pasquale Kaburu	Mi Kenya east FCS Ltd	0700046254	7453639		
10.	DOUGLAS MUGAMBI	NYAKI FCS	0722680791	7463406		



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MUNYAO, MUTHAMA & KASHINDI

REGULATORY IMPACT ASSESSMENT (RIA) REPORT

THE CROPS (COFFEE)(GENERAL)(AMENDMENT) REGULATIONS, 2022

FOR

AGRICULTURE AND FOOD AUTHORITY
(COFFEE DIRECTORATE)

JUNE, 2022

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LIST OF ABBREVIATIONS AND ACRONYMS

AFA	Agriculture and Food Authority
ASTGTS	Agricultural sector growth and transformation strategy
CAADP	Comprehensive Africa Agriculture Development Programme
Cap	Chapter
CBD	Coffee Berry Disease
CBK	Coffee Board of Kenya
CBK	Coffee Board of Kenya
CDA	Coffee Development Authority
CIDPs	County Integrated Development Plans
CLR	Coffee Leaf Rust
CMA	Capital Markets authority
CMB	Coffee Marketing Board
CoK	Constitution of Kenya
COTEPA	Coffee and Tea Parliamentary Association
CS	Cabinet Secretary
DSS	Demographic Surveillance System
ERS	Economic Recovery Strategy
GDP	Gross Domestic Product
ICA	International Coffee Agreement
ICO	International Coffee Organization
IMIS	Integrated Management Information System
ITK	Indigenous Technical Knowledge
KALRO	Kenya Agricultural and Research Organization
KEBS	Kenya Bureau of Standards
Kgs	Kilograms

KShs.	Kenya Shilings
M & E	Monitoring and evaluation
MoALF & C	Ministry of Agriculture, Livestock, Fisheries and Cooperatives
MT	Metric Tonnes
MTIP	Medium Term Implementation Plan
NCA	National Coffee Auction
NCE	Nairobi Coffee Exchange
NEMA	National Environment and Management Act
OECD	Organization for Economic and Co-operation and Development
p.a	Per Annum
PCPB	Pest Control Products Board
RIA	Regulatory Impact Assessment
RIS	Regulatory Impact Statements
SACCOs	Savings and Credit Cooperative Societies
SI	International System of Units
SRA	Strategy for Revitalizing Agriculture
US	United States
WRA	Water Resources Authority

ACKNOWLEDGEMENT

This report was prepared by Munyao, Muthama and Kashindi Advocates (the Consultant) for the Ministry of Agriculture, Livestock, Fisheries and Cooperatives through the Agriculture and Food Authority (AFA) and the Coffee Directorate who played a critical role in the development of the Crops (Coffee)(General)(Amendment) Regulations, 2022 and the preparation of this report.

The Consultant acknowledges the contribution of the Ministry through the Cabinet Secretary Hon. Peter Munya, E.G.H and the technical team from the Ministry, AFA and Coffee Directorate led by Mr. Akuma Enosh, Director of Coffee Directorate, Mr. Bernard Gichovi, James Kimutai and Scholasticah Muthara.

The Consultant appreciates the technical team at Munyao Muthama and Kashindi Advocates who undertook the project led by Dr. Seth Wekesa (Team Leader), Mr. George Kashindi, Mr. George Nyamu, Ms. Winnie Kungu and Mr. Trevor Omondi. Other members of the firm not named here provided critical support to the project behind the scenes.

EXECUTIVE SUMMARY

The Ministry of Agriculture, Livestock, Fisheries and Cooperatives engaged the firm of Munyao, Muthama and Kashindi Advocates (the Consultant) to undertake a Regulatory Impact Assessment (RIA) of the proposed Crops (Coffee)(General)(Amendment) Regulations, 2022. The Consultant was tasked to determine whether the benefits to be obtained from the proposed Regulations would outweigh the costs imposed on the industry by the Regulations. This is in accordance with sections 6 and 7 of the Statutory Instruments Act, 2013. The RIA sought to evaluate the impact of the proposed Regulations on the public and private sectors to inform the choice of the most appropriate way to achieve the objectives of the proposed Regulations. The RIA evaluates the major feasible alternatives of the intended regulatory action and other practical, non-regulatory options.

The approach to the assignment entailed conducting a detailed desk review and synthesis of the draft Crops (Coffee)(General)(Amendment) Regulations, 2022 against the Crops Act, the Constitution of Kenya 2010, AFA Act, County Governments Act and other relevant laws. The Consultant also reviewed relevant agricultural and coffee subsector policies and strategies, various publications, and other key policy documents for qualitative analysis, quantitative analysis, comparative analysis and trend analysis of data from these documents. The Consultant further conducted a trend analysis of judicial decisions on regulatory impact assessment and public participation and undertook key informant interviews as well as focused group discussions to validate secondary data obtained from the documents.

The review established that the proposed Amendment Regulations shall have a positive impact on the public sector by strengthening the framework for plantation and production, sale, export and import of coffee products in Kenya. It was also found that the proposed Amendment Regulations shall lead to increased job opportunities and the production of quality coffee.

The proposed Regulations shall also have a positive impact the society's fundamental rights and freedoms through the promotion of the right of consumers to quality coffee and the right to access to information as envisaged under articles 46 and 35 of the Constitution respectively. The Regulations will promote affirmative action through the representation of not more than two-thirds gender rule in Cooperative Societies. The Regulations will further lead to the promotion of the production of quality coffee which will ultimately satisfy the socio-economic rights of the citizenry as envisaged under Article 43 of the Constitution.

The RIA, therefore, recommends the passing and operationalization of the proposed Regulations.

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1.0 BACKGROUND AND INTRODUCTION

1.1 Introduction

Kenyan coffee is grown on an estimated total area of 115,570ha in 32 counties out of a total of 47 counties in the country. The country has a dual production system with approximately 3,000 large estates and over 700,000 smallholder growers. An estimated 6, 000, 000 Kenyans are involved in the country's coffee industry, including the 700,000 smallholder farmers.

The History of Coffee in Kenya dates back to 1893 when missionaries imported Bourbon coffee from Brazil. It was first grown at Bura in Taita Hills then under irrigation. This was followed by Kibwezi in 1900 and Kikuyu in 1904. During this period, Kenya was under the British colony and part of the East Africa Protectorate. Agriculture was under British control in the region, including coffee growing. All cash crops were grown by the white settlers while the natives were to provide free or cheap labor on the farms. There were no regulations on crop farming, production, processing, grading, and marketing. Coffee marketing was handled by rudimentary institutions between 1900 and 1933. Subsequently, the colonial government established a Coffee Board of Kenya (CBK) which was responsible for coffee licensing, inspection, and promotion.

The role of CBK changed over time through various amendments to the law. In July 2001, a new Coffee Act was enacted, establishing the board as a statutory body under the Ministry of Agriculture. The Act specified new roles for CBK now undertaken by the Coffee Directorate under The Agriculture and Food Authority (AFA) which include formulating policies to enhance coffee production, processing, and local and global marketing; and Registration and licensing

It was until after the Mau Uprising (1952-1960) that locals were allowed to grow coffee. Regardless, there were still government restrictions in place on how many crops one could grow and the coffee-making process. All the coffee was centrally processed and marketed and usually, the best coffee was exported, leaving low-grade coffee to be sold locally.

Most of Kenya's coffee is grown in areas with an elevation ranging from 1,400 to 2,000 meters above sea levels, temperatures ranging from 15°C to 24°C, and deep volcanic soils. These include: Mt Kenya regions (Murang'a, Kirinyaga, Nyeri, Thika, and Kiambu); Rift Valley (Nakuru, Kericho, Nandi Hills, Trans Nzoia); (Western Kenya) (Bungoma, Mt Elgon, Kisumu, Kisii, Nyamira); Eastern regions (Embu, Meru, and Machakos).

The two species grown are Arabica and Robusta. However, it's Arabica coffee that has put Kenya on the world map owing to its pleasant aroma and its rich flavours. It is also the most produced, with over 99% of Kenyan coffee being Arabica.

Kenyan coffee is usually grown in rain-fed farming systems. However, some large estates have established irrigation systems.

There are two coffee harvest seasons in Kenya between April to June and October to December every year. During this time, auctions are held each Tuesday at the Nairobi Coffee Exchange.

About 90% of the coffee is wet-processed at washing stations while the rest gets dry-processed into mbuni, i.e., dried coffee that has not undergone pulping (Country Coffee Profile, ICO, AFA).

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) in 1988 to now an average of 40,000 MT. The challenges 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, the coffee farmers' earnings are relatively poor and take a considerably long period of 6 to 8 months before payments of proceeds are made.

Reforms were undertaken in 2001 following international and domestic pressure to liberalize marketing, which was controlled by the Coffee Board of Kenya (CBK). These reforms were embodied in Sessional Paper number 2 of 2001. The marketing function (warehousing, custody of warehouse receipts, auctioning, and payments processing) was granted to millers and marketing agents (Report of the National Task Force on Coffee Sub-Sector Reforms, 2016).

Further reforms in the sector were introduced in the Crops (Coffee) (General) Regulations, 2019. These Regulations have been implemented for about two years but are yet to realize the intended transformation of the coffee industry in the country due to various reasons including conflicts and vested interest among industry actors, duplication of roles by key sector actors, other emerging issues, especially on governance in the sector institutions. The draft Amendment Regulations are intended to further streamline the subsector by introducing interventions to support the development of the industry in the country including the establishment of a regional coffee auction modeled on the Tea Regional auction in Mombasa (AFA, 2022).

1.2 Rationale for regulatory Impact Assessment Process

Regulatory Impact Assessment (RIA) has emerged as a key instrument to support evidence-based and coordinated policy-making. RIA is an important instrument for improving the quality of regulations. RIA is a key means to improve the efficiency, transparency and accountability of decision making by ensuring more coherent and transparent policies and making regulations more effective and efficient. RIA typically encourages several "good governance" features and contributes to a better business-enabling environment.

RIA is a flexible tool that helps governments make better regulatory and other policy decisions based on the information and empirical analysis about the potential consequences of government action. RIA aims to ensure that better policy options are chosen by establishing a systematic and consistent framework, including stakeholder consultation, for assessing the potential impacts of government action.

A systematic application of RIA, when embedded in the policy process, trains decision-makers to ask and answer targeted questions, at the beginning of the policy cycle, about the need for and goals of regulation, and the possible consequences of government action.

RIA involves a range of methods that are aimed at systematically assessing the negative and positive impacts of the proposed and existing regulations. The many methods used in RIA – including benefit-cost, cost-effectiveness, and least-cost tests, and partial tests such as administrative burden and small-business tests – are means of giving the order to complex qualitative and quantitative information about the potential effects of regulatory measures. Through RIA, an analysis of proposed regulations is done by comparing different options

RIA is a methodological framework and an administrative procedure for better-informed policy-making and legislative enactments. RIA facilitates the interdepartmental process and often involves public consultation. Through the process, RIA ensures that the benefits of government action justify the costs and that the option chosen maximizes benefits and minimizes costs.

At the end of the RIA, Regulatory Impact Statements (RISs) are created. The RIAs deal with substantive policy issues, are read and utilized by decision-makers, and are normally available for public scrutiny and subject to the evaluation, but increasingly so in parallel with the drafting phase) of independent oversight authority. Although methodologies vary across countries, several key elements are common. An RIA normally includes: -

i. Problem definition and justification for regulatory action;
ii. Data, on which the analysis is based;
iii. Results of the consultation with affected parties and stakeholders;
iv. Identification of several feasible policy options;
v. Estimation and comparison of the different (qualitative and quantitative) impacts of each policy option; and
vi. Selection of a preferred option accompanied by a prospective analysis of its implementation and, more recently, providing the basis for ex-post review.

RIA has been used widely, especially in the Organization for Economic and Co-operation and Development (OECD) countries. But the practice has now found its way into many countries, including Kenya, where it has been given legislative impetus. It is widely recognized as an important mechanism, which can contribute to improving the business environment, and promoting regulatory efficiency and effectiveness. RIA allows policymakers to assess trade-offs, consider new ways to regulate and identify the most suitable alternatives to regulation. In essence, RIA is a method of systematically and consistently examining the positive and negative impacts arising from proposed government actions; and communicating the information to decision-makers and other stakeholders.

RIA is an important factor in designing a good-quality law as it helps to provide valid arguments supporting a planned regulation. The process is designed to improve the quality of regulation by ensuring that the decision-maker is fully informed when making regulatory instruments. The RIA process is designed to encourage careful consideration, at an early stage, of the fundamental question of whether regulatory action is required or whether policy objectives can be achieved by alternate or non-regulatory measures, with lower costs for business and the community. RIA may sometimes indicate that non-legislative measures are the best solution to a particular social and economic problem. Thus, RIA helps to avoid the production of redundant laws and reduce the cost implication in the formulation of laws.

Agriculture continues to be a major contributor to the country's economic growth and development, accounting directly for 24.5% and indirectly for 27% of the country's gross domestic product (GDP). In addition, the sector contributes to 65% of total exports and employs over 80% of Kenya's rural workforce. The coffee sub-sector is one of the sub-sectors contributing to the growth in agriculture through foreign exchange earnings, family farm incomes, employment creation and food security. The value of coffee as a percentage of all export goods represented 5.5% in 2017, while its share of GDP is 0.22%. The coffee industry contributes an average of Kshs 23 billion per year in foreign exchange earnings, ranking fourth after tourism, tea and horticulture. Therefore, the government recognizes the strategic role played by the sector in the economic empowerment of coffee farmers and service providers (Country Coffee Profile: Kenya, ICO, AFA, 2019).

The coffee sector in Kenya is an important economic activity in terms of income generation, employment creation, foreign exchange earnings and tax revenue. Over the years, the economic performance of coffee has had repercussions on all spheres of life, both upstream affecting farm input suppliers and downstream the transport sector; on savings and investment intermediation; consumption of goods; and households' ability to pay for education, health and other services.

The production of coffee in Kenya has been on a steady decline and production has remained at just about 40,000 Metric Tonnes compared to a high of 128,926 MT in the year 1987/1988. In terms of earnings, until 1986, coffee was the number one source of foreign exchange for the country and it accounted for about 40.6 percent of the national foreign exchange earnings. It earned about 107 billion Kshs, which was about 10 percent of agriculture's share of GDP between 1987/88 and 1997/98 (The fate of coffee in Kenya- an assessment of factors affecting the small-scale coffee producers' decision-making process, Rasmussen, Kapande, Eisler, Sigaard, Gedremichae, 2014).

A total of 115,570ha of land is dedicated to coffee production in 32 counties in the country, distributed as follows: co-operatives 88,278ha and estates 26,222ha. This crop is managed through some 500 cooperative societies, and a total of about 3,000 coffee estates, with 60% of the production done by some 700,000 smallholder farmers who largely depend on the crop for their livelihood.

Cooperative societies are required to pay at least 80% of sales proceeds to farmers. The cherry payment rates to farmers vary depending on individual societies- some paying as low as 10% of NCE prices, different varieties, quality and management style, efficiency and losses in processing among other factors. According to KALRO, the highest production cost is Kshs 52.30/kg while the lowest production cost is Kshs 10/kg (Country Coffee Profile: Kenya, ICO, AFA, 2019). The effect of these parameters that cause this big difference in cherry payment rates can be significantly reduced through improved regulation and oversight in the coffee industry and thus improve coffee farmers' earnings and thus their livelihood.

Despite the many challenges faced by the sector as outlined in the foregoing sections, coffee has remained a major employer in Kenya. Between 2001 and 2005, the estate sub-sector accounted for an average of 61,000 employees in any one year, equivalent to 19 percent of total employment in agriculture and forestry activities and about 4 percent of total employment in Kenya. In terms of gender, 75 percent of total employment in this commodity chain are males and 25 percent females. Casuals and part-timers constitute 21 percent of the total, of whom 20 percent are men and 24 percent women.

To the 61,000 employed in the coffee estate sub-sector should be added the persons working in coffee activities either for pay, profit or family gain in the small coffee farm/cooperative sub-sector either as regular workers or on a seasonal or casual basis. Such activities cover weeding, spraying, harvesting/picking, sorting and transporting coffee to the pulpery. Other workers are employed in coffee factories, milling, marketing and allied activities. As for the smallest units among the smallholders, some 700,000 are self-employed coffee growers. When all are accounted for, close to a million people depend on the coffee sector for their living, employed at some stage in the commodity chain (Coffee in Kenya: Some challenges for decent work Leopold P. Mureithi, 2008). It is important therefore that these jobs are secured and more even be created through increased and sustained production of coffee in Kenya.

Revamping the coffee is also important for this sector to contribute to the Government's development agenda as envisaged in the Government's "Big 4" agenda, vision 2030 and the Agricultural sector growth and transformation strategy (ASGTS) by increasing coffee production, employment creation, value addition in coffee, and improved food security, health and livelihoods supported by increased farmers' incomes from coffee.

1.3 Objectives of the Assignment

Section 40 of the Crops Act 2013 empowers the Cabinet Secretary responsible for Agriculture, in consultation with Agriculture and Food Authority and county governments, to make regulations for the production, distribution and marketing of scheduled crops including coffee.

The general objective of the assignment was to evaluate the effects of the proposed Crops (Coffee)(General) (Amendment) Regulations 2022 both on the public and the private sectors to inform the choice of the most appropriate way to achieve the objectives of the proposed Regulations by evaluating the major feasible alternatives of the intended regulatory action and other practical non-regulatory options. The assignment also examined the benefits to be obtained from the proposed Regulations as well as the costs of imposing the proposed Regulations on the industry players.

The specific objectives of the assignment were to:

i. Review the draft Crops (Coffee)(General) (Amendment) Regulations 2022;
ii. Review other laws that govern the industry including but not limited to the Constitution of Kenya, Crops Act 2013, AFA Act, 2013 and County Governments Act;
iii. Conduct a Regulatory Impact Assessment (RIA) on the draft regulations as per sections 6 and 7 of the Statutory Instruments Act 2013 with a specific focus on:
    - Cost-benefit analysis of the proposed regulations with a focus on economic, environmental and social impact, as well as administrative and compliance costs on all stakeholders;
    - The cost of administration and compliance on all stakeholders;
iv. Prepare a Regulatory Impact Statement (RIS) for the proposed regulations in accordance with sections 7, 8 and 9 of the Statutory Instruments Act 2013;
v. Prepare an Explanatory Memorandum for the proposed regulations;
vi. Prepare a notice on the Regulatory Impact Statements for publication in the Kenya Gazette and daily newspapers of wide circulation;
vii. Submit a draft report containing the finding of the review, the draft RIS and an Explanatory Memorandum for consideration and approval by the Authority before subjecting the draft report to a national validation workshop; and
viii. Submit a final report after incorporating views and suggestions of the stakeholders collected from the national validation workshop.

1.4 Project Deliverables

The assignment resulted in the following deliverables: -

i. Inception report;
ii. Regulatory Impact Statement for the Proposed Regulations that include but are not limited to economic, social and environmental impacts as well as administrative and compliance costs;
iii. Draft Regulatory Impact Assessment report for the proposed Regulations;
iv. Final Regulatory Impact Assessment report for the proposed Regulations;
v. Explanatory Memorandum for the proposed Regulations;
vi. Notices on the Regulatory Impact Statements for publication;
vii. Certificate of compliance for the proposed Regulations; and
viii. Presentation of draft regulatory impact statement to the national validation workshop for further comments.

1.5 Methodology and Approach

The approach to the assignment entailed a detailed desk review and synthesis of the Crops (Coffee)(General) (Amendment) Regulations 2022 against the provisions of the Kenya Constitution 2010, Crops Act 2013, AFA Act, 2013, County Governments Act 2012 and other relevant laws and regulations. The Consultant also reviewed relevant literature including the regulatory impact assessment report for the coffee general regulations 2019, agriculture policies, strategies and publications, Vision 2030, the Big 4 Agenda and other key policy documents for qualitative analysis, quantitative analysis, comparative analysis, trend analysis of data from these documents, trend analysis of judicial decisions on regulatory impact assessment and public participation to validate information obtained from the public participation records. The Consultant also validated stakeholders' engagement in the process of developing the draft regulation through telephone interviews with a selected group of stakeholders to confirm their attendance and participation in the public consultative forums. The Consultant also made a presentation of the draft Regulatory Impact Statement to a national validation workshop organized by the Authority to collect further comments from key stakeholders. Then the consultant prepared and submitted a final report together with accompanying documents to the Authority after incorporating useful comments from the workshop.

1.6 Objectives of the Crops (Coffee)(General) (Amendment) Regulations 2022

The proposed regulations seek to amend the provisions of the Crops (Coffee)(General) Regulations 2019 and enhance the regulation of the coffee subsector in Kenya. Specifically, the purpose and object of the regulations include;

i. To give effect to section 40 of the Crops Act, 2013;
ii. To provide for licences to be issued by the licensing authorities;
iii. To provide for the obligations of licence holders and service providers, and the protection and regulation of their interests along the value chain;
iv. Recognize the grower of coffee as the owner of coffee until the coffee is sold and paid for;
v. Provide for the protection of growers' rights along the value chain;
vi. Provide for a transparent and timely clearing and settlement of coffee sales proceeds to the growers and service providers;
vii. Provide for the collection and maintenance of data related to coffee;
viii. Ensure improvement of coffee standards, increased production and support; and
ix. Regulate the coffee industry in Kenya.

2.0 ASSESSMENT OF THE NATURE AND EXTENT OF THE PROBLEM

This section describes the nature and extent of the problem in the coffee sub-sector which calls for a better regulatory framework.

2.1 Nature of the Problem

Historically, coffee has been an important commodity in Kenya because of its contribution to foreign exchange earnings, farm incomes and employment opportunities. Currently, the coffee sub-sector is facing unprecedented challenges which have drastically affected the production levels, processing and marketing. Key among them are low earnings from coffee despite its premium quality, delayed coffee payments, mismanagement and inefficiencies in cooperatives, restrictive coffee laws, high cost of production, processing and marketing, lack of direct access to the trading floor and weak enforcement of policy and regulation.

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 the year 1987/1988. However, following the collapse of the International Coffee Agreement in 1989, production of coffee went into a steady decline and coupled with the above key challenges, production today is estimated at 40,000 MT.

The problem in the coffee subsector is further 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.

The primary coffee processing mainly includes the processing of cherry to parchment and for smallholders, these functions are carried out in pulping stations owned by Cooperatives. However, the performance of these cooperatives has remained poor due to various factors including weak financial and administrative systems and poor governance including farmers' ineffective oversight and weak enforcement of various regulations by the Department of Cooperatives which results in poor payment rates to growers. Poor borrowing policies and appropriation of loans have plunged most coffee cooperatives into debts that they are unable to service with credit from commercial Marketing agents, millers, Banks and SACCOs which most societies find easier to access charging between 12% to 24% interest rates p.a compared to Government funds which charge between 3 – 10% p.a.

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 a decline in production, liberalization created over capacity, which increased the milling and hidden costs that are ultimately passed to the coffee farmers, further eroding growers' returns. Milling costs charged by different milers range between $40 - 65 per tonne of parchment which together with costs for other services and processing costs make the coffee value chain inefficient and costly to growers.

In marketing, the cross interactions among value chain actors have denied coffee farmers, as the principal, the ability to oversee the marketing agents among others marketing their coffee. Most growers and Cooperative management committee members elected by growers lack the prerequisite technical know-how to effectively supervise the marketing agents 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. In particular, the role of brokers has remained central to coffee marketing in Kenya yet these players are not licensed by the Authority but by the Nairobi stock exchange, thus denying the Authority any oversight role in their operations which often results in questionable deals in the market.

Other functions of coffee marketing agents include facilitating warehousing of clean coffee, preparation of sale catalogs, sale of coffee at NCE, offering finances and distributing coffee proceeds to various stakeholders. The marketing agents' performance has not been necessary for the interest of the coffee owner and they 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 made worse on one hand by the absence of effective oversight by the regulator, which has promoted collusion between the agencies and the dealers, often denying growers full returns for their produce.

Currently, the brokers who primarily act for farmers and their cooperatives in the coffee auctions are not licensed by the Authority but by the Nairobi Stock Exchange which leaves the Authority with no control of these critical actors. Whereas 90 percent of coffee is traded at NCE, and the rest through the direct sale window, trading in NCE is conducted by registered marketing agents and dealers representing farmers and buyers respectively farmers are not allowed to sell their own coffee at NCE, unless they acquire marketing agent license. The inaccessibility of the NCE by many players due to stringent licensing requirements makes it lack transparency and an effective price discovery mechanism.

Additionally, the NCE faces legal, financial and operational constraints and has serious limitations that impede its effectiveness as an independent, reliable and transparent Exchange and its legal status remains unclear and the validity of the trading rules is also questionable. The NCE in a real sense operates more like a coffee auction floor rather than a coffee exchange. In addition to this ambiguity, there is a need to not only transform the NCE into an auction as well as to further develop it into a well-established regional coffee auction modeled on the Tea Regional auction in Mombasa to support not only a revamped local coffee industry but also to serve as a regional coffee auction hub marketing produce from the eastern Africa region.

On the other hand, direct sales, commonly referred to as the 'second window' were introduced to give the growers a direct link with the international buyers of Kenya Coffee in the hope of getting better prices but its importance in marketing Kenya coffee has remained low, handling only 10% of the produce marketed. This low performance is attributable to several factors including the fact 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 cannot market their coffee and negotiate and handle a contract, and also the fact that transactions under direct sale are time-consuming and do not meet farmers immediate cash flow needs so not preferred by most farmers.

In terms of product diversification and value addition, whereas Kenya coffee has unique characteristics that make it stands out in the world market, the country has however not invested in positioning herself in the specialty coffee segment as the country prefers to blend other coffee rather than sell her brand which denies growers the premium prices that specialty coffees attract.

World coffee prices have in recent years continued to rise. The global coffee prices climbed higher in January 2022, reaching 204.29 US cents/lb, as the consistent rise observed in 2021 continues. The ICO composite price has shown a continuous month-on-month increase for 16 months in a row driven by the concerns over supply, due to climate adverse conditions in major producing countries and increasing freight costs coupled with Covid-19 lockdown restrictions still disrupting trade flows in Asia (ICO 2022).

Locally, monthly coffee earnings nearly doubled to $90.4 million (Sh10.2 billion) in January as Kenya benefited from high global prices in the market occasioned by a shortage of produce. According to the Nairobi Coffee Exchange (NCE), the earnings jumped 90 percent from $47.5 million (Sh5.3 billion) in the corresponding month a year earlier, helped by a shortage of the produce in the market caused by frost in Brazil that affected production at the world's leading producer. The average price of the commodity in the review period hit a high of $338 (Sh38,363) for a 50-kilo bag from an average of $291 (Sh33,028) in the corresponding period last year. However, the majority of the Kenyan smallholder farmer, in most parts of the country continue to receive low payments often less than 40 percent of the prices received at the NCE (Nairobi Coffee Exchange, 2022)

2.2 Extent of the Problem

Smallholder farmers contribute to 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 for 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 go 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 in addition to lowering produce quality. 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.

In addition to the escalating high production costs, the area under coffee is shrinking due to urbanization high demand for real estate and the lack of a supportive 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. This lack of interest by youth does not augur well for the future of the coffee industry.

Whereas the Cooperative Societies process and market coffee for most smallholder farmers, the lack of effective oversight has allowed Cooperatives committees to overstate their operational costs, and allegedly have under-hand deals with millers, marketing agents and other service providers. This in addition to high processing losses erodes growers' income and this is evident in the Cooperative societies' differences in cherry payment schedules and is the cause of the variation in cherry payments per kilogram and whereas some Cooperative societies consistently pay reasonable amounts for cherry delivered, most consistently pay poorly.

Further, whereas the milling agreements set 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. Generally, 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 growers encourages some millers to overstate the milling loss, manipulate grades, interchange coffee ownership, and introduce hidden charges which leads to loss of volume and reduction of quality making the coffee value inefficient and costly venture for growers.

As a result of the above factors, despite improving global coffee prices, payments to farmers have remained low. In 2015 for example, based on the prices of the main grades which form the bulk of the sales volume at the NCE, the average price per kg of green coffee was Kshs. 477 equivalent to Kshs. 68 per kg of cherry in 2015. This price could have been as high as Kshs. 85 per kg of cherry for farmers producing AA and other high-value grades. However, the majority of the Kenyan smallholder farmer, in most parts of the country, received Kshs. 30-40 per kg of cherry during 2014/15. This was less than 40 percent of the prices received at the NCE. In addition, though coffee is paid for in US$ to marketing agents who keep the cash for seven days or more, a majority of them pay farmers in Kshs. and not on time. Therefore, most farmers do not benefit from any potential currency gains. (Report of the National Task Force on Coffee Sub-Sector Reforms, 2016).

Apart from the low payments received, many growers have to wait for almost 6 to 8 months 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 the processing of payments. Although these payments to growers are required by law to be made within 14 days, this is hardly the case. Quite often, there are complaints of even further delays at the cooperative level. Some of these delays are attributed to managerial inefficiencies, including coffee factory management's limited capacity to process payments and in some cases, indebtedness of the societies sometimes borrowed against the growers' deliveries (Nairobi Coffee Exchange news, 2022).

While Kenya has the natural advantage 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 the fact that the country has preferred to blend other coffee, not to sell its brand; In Kenya, farmers are not allowed to market their coffee, and therefore do not know the opportunities in the market including branding for target niche markets, lack of no information on supply or how to buy, as well as ways to authenticate the sources and absence of Kenya flavor based coffee classification as opposed to selling coffee by bean-sizes description such as AA, AB etc. as is currently the situation. This form of description accords no meaning or loyalty to customers. Thus, Kenyan coffee, in many ways, the coffee lacks distinguishing marks and is sold as a raw material with no value addition. (Report of the National Task Force on Coffee Sub-Sector Reforms, 2016).

2.3 Rationale/Justification of the Proposed Amendments

The Crops (Coffee) (General) Regulations, 2019 have now been implemented for about two years but the regulations did not realize the intended transformation of the coffee industry in the country due to various emerging challenges identified. Besides, several developments in the industry have necessitated additional interventions. The need to address these emerging challenges and the proposed additional interventions have informed the development of the proposed Crops (Coffee) (General) (Amendment) Regulations, 2022.

The proposed regulations seek to align the coffee sector regulations fully to the Crops Act 2013 which is the parent Act by licensing value chain players in line with the Constitution 2010 and the Crops Act 2013 and to remove conflicts brought about by the Crops (Coffee) (General) Regulations, 2019 which provided for regulatory roles by other agencies in the industry including the county governments and the Capital Markets Authority (CMA) thereby resulting to possible conflicts between these different government agencies while denying the AFA full oversight role in the sector. In addition, the proposed amendments will address various emerging issues especially on governance in coffee cooperatives which handle most of the coffee produced by smallholder growers by defining eligibility criteria for cooperatives board members, gender inclusivity and term limits, allowable sources of borrowing and set limits on interest rates for credit as well as requiring members' participation in key decision making in the cooperatives included in the selection of millers and borrowing. By regulating the cost of credit and setting the limit for coffee milling charges at Kshs. 4,000.00 per tonne of parchment milled, and the processing losses at 19%, the proposed amendments will increase the returns to the growers, transforming the coffee sector from being inefficient and costly as it is currently considered by many growers.

Whereas the NCE has served as the primary coffee marketing platform in Kenya, the Crops (Coffee) (General) Regulations, 2019 did not provide clarity on the identity, nature and legal status of the Nairobi Coffee Exchange (NCE) and the exchange has continued to operate as an auction floor rather than an exchange. The regulations eliminated the commercial Marketing Agent and the role was shared between the DSS, NCE and the Broker licensed under CMA. In the past two years, the situation has presented a legal lacuna that necessitated the CS to issue a legal notice to extend the presence of Marketing Agents in the marketplace due to the lack of the necessary infrastructure namely the DSS and NCE management committee. It is therefore a priority that this gap is urgently addressed to enable the NCE to operate as envisaged in the regulations as this has been causing confusion, conflict, and uncertainty in the industry. The proposed amendments will also introduce an independent auction organizer in the NCE which will remove underhand deals and promote transparency and fair trade practices in coffee auctions. Further, the proposed amendments seek to subject coffee sold through direct sales auction pricing which will ensure that coffee sold in direct sales is not undervalued, thus ensuring growers get real value for their coffee whichever mode of sale is used. The amendments also provide for the development and establishment of a regional coffee auction modeled on the Tea Regional auction in Mombasa as a coffee auction hub for both the local coffee and coffee from other neighboring countries.

The proposed amendments will provide clarity on shared functions between the national and county governments in agriculture which is a devolved function by providing for stakeholders and growers to obtain necessary licenses and permits at the county level at a lesser cost and promote greater harmony with county governments. The proposed amendments will also encourage the digitalization of processes such as licenses and permits to vide AFA IMIS system for improved information management and planning.

The gazettement and implementation of the proposed amendments will provide clarity of roles and remove ambiguity, duplication of roles, bring harmony in the regulation of the coffee industry and eliminate duplication of payments, rationalizing licensing fees to the volume of business - graduated licence fees thus reducing the cost of doing business in the industry, even out the cost of the various industry services for growers thereby reducing costs for the growers and regulate public borrowing to ensure affordable credit for coffee growers which will all contribute to maximizing returns to coffee growers

2.4 Regulatory Contextualization

Coffee was first planted in Kenya at Bura in the Taita Hills in 1893 before spreading out to the central Eastern, Rift Valley and western Kenya then grown only by white settler farmers in the so-called white highlands. In the 1930s, following the Devonshire White Paper report of 1923, the colonial government allowed controlled planting of coffee outside European-settled areas, particularly in Kisii and Meru and there was no statutory control, in terms of crop husbandry, production, processing, grading and marketing. The marketing of coffee was handled by individuals and through rudimentary institutions between 1900 and 1933. At the request of coffee farmers, the colonial government enacted the Coffee Industry Ordinance in 1932 and established a Coffee Board (CB) in January 1933. The role of the Coffee Board was licensing, inspection and promotion.

The Coffee Marketing Board (CMB) was established under Coffee Marketing Ordinance No. 6 of 1946 and became fully operational on 1 July 1947 to cater for coffee marketing activities, with functions including central warehousing, sales of coffee at central auctions, liquoring and financing.

In 1954, the colonial government's Swynnerton Plan was introduced, with the main objectives of land adjudication and consolidation. The plan also facilitated African acquisition of land and so led to the expansion of coffee production. The first African coffee cooperatives were registered soon after the implementation of the plan.

Ordinance No. 26 of 1960 consolidated the Coffee Industry Ordinance and the Coffee Marketing Ordinance into the Coffee Ordinance Cap 333. This came into effect on 5 July 1960, when the Coffee Board of Kenya (CBK) and the CMB were established under the same law.

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 for wet mills for small-holder farmers under the ambit of cooperatives. To guarantee cherry supply to cooperatives, an amendment of the Coffee Act empowered the Minister in charge of agriculture to prescribe that a farmer owning less than 20 acres should join cooperatives. The threshold for mandatory membership of cooperatives has since fallen to five acres as 'larger' smallholder farmers demanded independence from pooling their coffee with others without fair compensation. (The fate of coffee in Kenya- an assessment of factors affecting the small-scale coffee producers' decision-making process, Rasmussen, Kapande, Eisler, Sigaard and Gedremichae, 2014)

Act 13 of 1971 abolished the CMB and consolidated the function of coffee marketing within the regulatory functions of the CBK. Since then, the CBK controlled the coffee sub-sector up to July 2001, when a new Coffee Act 2001 was enacted that specified new roles for CBK as an industry regulator.

The collapse of the International Coffee Agreement (ICA) in 1989 precipitated a 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).

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) was granted to millers and marketing agents.

The Finance Act of 2005 amended the Coffee Act 2001, to introduce a second window of selling coffee referred to 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 establish a ministerial committee to manage the Nairobi Coffee Exchange (NCE). The amendment also barred the grower marketing agents from trading at NCE. Further, 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 embedded in the Agriculture Sector Development Strategy (ASDS) of 2010.

In line with the ASDS, Parliament enacted Agriculture, Food Authority (AFA) and Crops Act, 2013, which repealed the Coffee Act, 2001. Among others, Coffee Board became a directorate under AFA, with regulatory oversight of 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.

Following the promulgation of the Kenya Constitution 2010, certain functions related to agriculture, including the provision of extension services, were devolved to the county governments, giving the County governments a role in the development of the coffee sector in their counties.

His Excellency the President appointed a National Taskforce on the Coffee Subsector Reforms on 3rd March 2016 vide gazette notice No. 1332 and which proposed major changes to address the challenges of the coffee sector and turn it around.

The Crops (Coffee) (General) Regulations 2019 were gazetted in 2019 to replace Coffee General Rules to regulate the coffee sector and are currently in use. (Report of the National Task Force on Coffee Sub-Sector Reforms, 2016)

2.5 Policy Background

Agricultural policies in Kenya have been developed around the main objectives of increasing productivity and income growth across the different sectors and sub-sectors. Within this framework, several policies have been formulated and implemented to introduce stability in agricultural output, commercialize and intensify production, and promote appropriate and participatory policy formulation and environmental sustainability across both food and cash crops including coffee.

The Economic Recovery Strategy (ERS) 2003-2007 was drafted with these aims as a background and was centered on the development of the three main sectors (i.e. agriculture, manufacturing and services) of the economy. The strategy involved several interventions in the agriculture sector, the main ones being providing single enabling legislation, rationalizing roles and functions of agricultural institutions, developing the irrigation schemes across the country, strengthening extension services and increasing smallholder access to credit. Within this context, in 2004 MoALF & C drafted and endorsed the Strategy for Revitalizing Agriculture (SRA), spanning up to 2014, that aimed to create a vibrant, business-oriented agricultural sector, producing jobs in rural areas and participating in regional and international trade.

In June 2008, the government launched Kenya Vision 2030 as the strategic document for Kenya's economic and social development. The main objective of the strategy was to transform Kenya into 'a newly industrializing, middle-income country providing a high quality of life to all its citizens in a clean and secure environment' (Government of Kenya, 2007). In this document, agriculture is considered a strategic sector for the achievement of the 10% annual growth rate target through the transformation of smallholder agriculture from subsistence to commercially oriented and modern agriculture.

The Kenya Vision 2030 (Third Medium Term Plan 2018-2022) is a nationwide multi-sectorial document that outlines the main policies, legal and institutional reforms as well as programs and projects that the Government plans to implement during the period 2018-2022. It is a part of the implementation process of the Kenya Vision 2030, the national strategy covering the period from 2008 to 2030 which aims to transform Kenya into a newly industrializing, middle-income country providing a high-quality life to all its citizens through three pillars: economic, social and political

The endorsement of the vision was followed by a review of the SRA that led to the development and approval of the ASDS 2010-2020, the main objective of which was to achieve a food secure and prosperous nation by 2020. The strategy identifies four major challenges for Kenyan agriculture: persistent low productivity; sub-optimal land use mainly related to the growth of the population; inefficient markets due to insufficient storage capacity and poor access to markets; and the low levels of value addition and largely informal value chains. To address these challenges, the ASDS set out strategic objectives for each agriculture sub-sector including the coffee sector and listed six major intervention areas: irrigation and water management, land use, the development of northern Kenya, natural resource management, and the development of river basins, and forestry and wildlife.

The ASDS provided the basis for the implementation of the CAADP Compact and the formulation of the Medium Term Implementation Plan (MTIP) 2010-2015 that was developed to ensure the implementation of the ASDS. The MTIP was revised in 2013 and included a 'Results Framework' based on six pillars: (i) increasing productivity and commercialization, (ii) promoting private sector participation, (iii) promoting sustainable land and natural resources management, (iv) improving agricultural services, (v) increasing market access and trade, and (vi) promoting effective sector coordination and implementation.

Agriculture Sector Transformation and Growth Strategy (ASTGS), 2019-2029 is a ten-year nationwide sectorial document aiming at developing and transforming the agricultural sector to achieve what is established by Article 43 of the Constitution which states that Every person has the right to be free from hunger, and to have adequate food of acceptable quality". To reach the overall goal it establishes 3 anchors for the first 5 years as follows (i) increase small-scale farmer, pastoralist and fisher-folk incomes; (ii) increase agricultural output and value add, and (iii) increase household food resilience.

Big 4 Agenda: The Big Four Agenda is an economic blueprint that was developed by the government to foster economic development and provide a solution to the various socio-economic problems facing Kenyans built on the 4 pillars of food security and nutrition, affordable universal health care, Affordable housing and Enhancing manufacturing by the year 2022.

The fourth schedule of the Constitution of Kenya 2010 has assigned specified functions on agriculture to the national government and the county governments and it stipulates that the two levels of government shall conduct their mutual relations based on consultation and cooperation (Article 6 and Article 189 (1) (b) (c)). The role of the National government is to formulate and implement national agricultural policies and strategies to develop the agricultural sector. The roles of county governments include agriculture (crop husbandry); implementation of programmes in the agricultural sector to address food security in the county; development of programmes to intervene in soil and water management and conservation of the natural resource base for agriculture; land development services for horticultural production for food security and others.

The various County Integrated Development Plans (CIDPs) and country-specific legislation, policies and strategies: Individual county governments have developed different pieces of country-specific legislation, policies and strategies for the development of agricultural production and marketing in the individual counties. These instruments will affect the coffee industry in individual counties.

International and regional conventions and agreements: Kenya is also a signatory of various International coffee policies and treaties which are employed by the international community to regulate trading or to reduce the volatility of different product markets. These include trade agreements, international arrangements or controls or limitations on activities on commodities markets, regional and bilateral policies that are employed by governments to regulate trade. These policies among others include export bans or limitations, variable export taxes or import tariffs among others.

There are other relevant legislations to the production, processing and marketing of coffee. These include:

The Crops Act 2013 was enacted to accelerate the growth and development of agriculture in general, enhance productivity and incomes of farmers and the rural population, improve the investment climate and efficiency of agribusiness and develop crops as export crops that will augment the foreign exchange earnings of the country, through the promotion of the production, processing, marketing, and distribution of crops in suitable areas of the country.

Agriculture and Food Authority Act No. 13 of 2013 is an Act of Parliament to provide for the consolidation of the laws on the regulation and promotion of agriculture generally, to provide for the establishment of the Agriculture and Food Authority, to make provision for the respective roles of the national and county governments in agriculture excluding livestock and related matters in furtherance of the relevant provisions of the Fourth Schedule to the Constitution and connected purposes

Agricultural Produce (Export) Act (Cap 319) is An Act of Parliament to provide for the grading and inspection of agricultural produce to be exported, and generally for the better regulation of the preparation and manufacture thereof. This Act makes provision for the public control of the exportation of agricultural produce and any other article produced or derived from farming operations that the Minister, by notice in the Gazette, declares to be agricultural produce for this Act.

Food, Drugs and Chemical Substance Act (Cap 254) is an Act of Parliament to make provision for the prevention of adulteration of food, drugs and chemical substances. This Act provides rules for the placing on the market of food, drugs for man and animal and chemical substances, establishes the Public Health (Standards) Board and makes otherwise provision for the control of the quality and safety of food, drugs and chemical substances to be placed on the market of Kenya.

Public Health Act (Cap 242) is concerned with the protection of public health in Kenya and lays down rules relative to, among other things, food hygiene and protection of foodstuffs, the keeping of animals, protection of public water supplies, the prevention and destruction of mosquitos and the abatement of nuisances including nuisances arising from sewerage. The Act establishes the Central Board of Health and County health management boards. It also establishes and defines the functions of health authorities.

Trade Description Act (Cap 505) is an Act of Parliament to prohibit misdescriptions of goods, services, accommodations and facilities provided in the course of trade, prohibit false or misleading indications as to the price of goods and confer powers to require information or instructions relating to goods to be marked on or to accompany the goods or to be included in advertisements.

Weights and Measures Act (Cap 513) is an Act of Parliament to amend and consolidate the law relating to the use, manufacture and sale of weights and measures and to provide for the introduction of the International System of Units (SI). This Act would apply to agriculture produce trading in regard to their correct weights and labeling for efficient marketing.

Standards Act (cap 496) – This Act makes provision for the promotion of standards in Kenya and this purpose established the Kenya Bureau of Standards as a body corporate. The Bureau promotes standardization in industry and commerce in Kenya and carries out other functions assigned to it under this Act. The Act also establishes the National Standards Council which among other things, supervises and controls the administration and management of the Bureau, declares standards and advises the Cabinet Secretary on standards policy. The Act further sets out procedures for the control of standardization marks and undefined permits including for agricultural produce and products

The Kenya Agricultural and Livestock Research Act, 2013 No. 17 of 2013 is an Act of Parliament to provide for the establishment and functions of the Kenya Agricultural and Livestock Research Organization; provide for organs of the Organization; provide for the coordination of agricultural research activities in Kenya, and connected purposes.

Pest Control Products Act Cap 346 of 1982 is an Act of Parliament to regulate the importation, exportation, manufacture, distribution and use of products used for the control of pests and of the organic function of plants and animals and for connected purposes.

3.0 EFFECTS OF THE PROPOSED AMENDMENT REGULATIONS

3.1 The Crops (Coffee) (General) (Amendment) Regulations, 2022

The Crops (Coffee) (General) (Amendment) Regulations, 2022 have been developed by the Cabinet Secretary for Agriculture, Livestock, Fisheries and Cooperatives in consultation with the Agriculture and Food Authority and county governments to give effect to section 40 of the Crops Act.

The Ministry gazetted the Crops (Coffee)(General) Regulations 2019 to facilitate the implementation of the provisions of the Act. However, due to technical challenges realized in the implementation of the Regulations and the Act, proposed amendments to the regulations. The Amendment Regulations will contribute to the effective implementation of the Act specifically in relation to coffee by providing for the regulation, promotion and development of the coffee industry in Kenya. The primary objectives of the different provisions of the proposed Amendment Regulations are discussed herein below:

The amendment in clause 3 of the draft regulations inserts several definitions that are considered important to the coffee industry players, coffee products, processes and documents which had been omitted in the lists of definitions under the Crops (Coffee) (General) Regulations, 2019. The definitions introduced include; auction organizer, cherry, buni, compliance certificate, grower marketer, grower miller, management agent, miller-marketer and person. In addition, the amendment also seeks to redefine some definitions as provided in the Crops (Coffee) (General) Regulations, 2019. The redefinition is meant to improve the meaning and align the terms to the intended purposes of these regulations as well as ensure a common understanding of the subsector players in the coffee industry. Some of the terms proposed for redefinition include auction, coffee business, direct settlement system and a sales catalogue.

The Amendment Regulations seek to delete the terms "agent" and "broker" from the definitions in the Crops (Coffee) (General) Regulations, 2019 as these terms may not have a common ultimate definition and may have several different meanings, which may lead to different interpretations of the objectives and provisions of the Crops (Coffee) (General) Regulations, 2019, thus hamper harmonized and effective implementation of the regulations across the entire coffee sector in the country. The Amendment Regulations introduced new definitions, redefined several terms and also deleted some terms. This is geared towards achieving a common distinctive meaning of each of these definitions within the Kenyan coffee sector while ensuring the inclusion of all coffee industry nodes actors and processes in the coffee regulations which is critical for the coherent and effective implementation of the Crops (Coffee) (General) Regulations, 2019 in the country.

Under clause 4, the Amendment Regulations amends clause 4(2) (a) of the General Regulations and introduces "auction organizer" and miller-marketer" to the list of coffee sector actors who require certificates or licenses from the Authority to conduct their specific businesses within the coffee industry. This amendment, therefore, mandates to Authority to issue licenses to coffee auction organizers and miller marketers who were previously not provided for in the Crops

(Coffee) (General) Regulations, 2019. This enables the Authority to monitor performance, review compliance to the provisions of these regulations and access critical data and information on the operations of coffee auction organizers and miller-marketers to inform better industry planning.

Additionally, clause 4(2) (d) is proposed for amendment to include the national body for the time being responsible for Standards together with the Authority as collectively responsible for the development, oversight and enforcement of quality standards in the coffee industry. This is necessary because the quality standards mandate is domiciled within the Kenya Bureau of Standards which has the infrastructure and legal framework for this role.

A further amendment of regulation 4 introduces a new clause 4(2)(i) imposing a mandate upon the Authority of undertaking inspections and surveillance of industry players. This obligation will allow the Authority to continuously monitor the compliance of all industry players and as well to access their eligibility for issuance or renewal of licenses and oversight the coffee sector performance in general.

Regulation 5(2)(c) is amended by replacing the "milling" and with "grower miller which means a grower who mills own parchment or mbuni as per the amended definitions in regulation 2 to accommodate the revised definition of this category of coffee industry players.

Regulation 7, proposes to amend clause 7(5) of the General Regulations by deleting it and replacing it with a new registration mandate of the Authority to register coffee warehousemen, warehouses, coffee miller-marketer, grower marketers, grower millers, auction organizers, coffee buyers, roasters, importers and certification companies, and maintain up to date register on them and share with the respective counties. This amendment deletes coffee millers, brokers, and agents and introduces coffee miller-marketer, grower marketer, grower miller, and auction organizer as per the amendments on definitions in regulation 2. This amendment, therefore, revises the coffee sector players' categorization for registration by the Authority to include all players and their roles as now defined in the proposed regulations and does away with coffee brokers as they are known in the coffee marketing processes and who are not licensed by the Authority but by the Nairobi stock exchange which has left the Authority with no mandate of them despite the key role that paly in coffee auctions and marketing.

Additionally, the Amendment Regulations insert a new provision in sub-clause 7(8) which introduces a two five-year term limit for directors of coffee co-operatives, 7(9) which will require that not more than two-thirds of the directors to be of one gender, and 7(10) which demands that nominees for directors meet the requirements of Chapter Six of the Constitution. These amendments seek to improve the governance of coffee cooperatives and to promote gender inclusivity for more participation by women in the coffee industry decision-making roles.

Further, it introduces sub-clause 7(11) allows every coffee factory by the resolution of its members in an annual general meeting, to apply for registration as a cooperative society under the Co-operative Societies' Act. This will allow factory members' factories to register as cooperatives to manage their own affairs and avoid inefficiencies within large cooperatives which erode the profits of well-performing factories.

Clause 7(12) mandates county governments, in consultation with the Authority, to issue distinguishing marks and grower codes as need be. This amendment will promote the branding of coffee products at the grower, factory, and cooperative and even at the county level for marketing which will promote the need for enhanced coffee quality and standards compliance and growers' coding and registration for more effective produce traceability. This will contribute to the general improvement of coffee production, quality and innovative marketing strategies.

Clause 7(13) will require the estate or a co-operative society offering coffee for sale or export not to use any distinguishing mark and grower code to market and identify such coffee unless the mark is registered by the county government in consultation with the Authority. This will promote the establishment of distinguishing marks and grower codes at the county level and at the national level which will allow for continuous monitoring of such cooperatives and growers to inform industry policy review and interventions.

Regulation 10 clause 10(1) (d) is proposed for amendment to provide for the role of the county governments in the registration of miller-marketers. This amendment recognizes the devolved government structure and more specifically the mandate of county governments in agriculture which is a devolved function.

Regulation 10 is further proposed for amendment by deleting section 10(2) (a) which provided for the licensing of coffee liquoreur's licences and introduce new sub-clauses for licensing of other coffee industry players including 10(2)(h) "grower marketer licence" – licensing a grower to market own coffee; 10(2)(i) "auction organizer licence" – licensing for the conduct of coffee auctions" and 10(2)(j) " miller- marketer Licence" - licensing the holder to conduct the business of milling and marketing coffee at a fee. These amendments introduce licenses specifically for grower marketers, auction organizers and miller- marketers who are new introductions in the regulations.

Regulation 11 (4) is proposed to be amended to prevent a holder of a coffee buyer's licence or any other entity associated with such holder not being licensed as a miller-marketer, roaster or warehouseman. This amendment aims at ensuring the separation of roles within the coffee industry and prevent the possibility of coffee buyers developing into oligopolistic or even monopolistic coffee agencies that would vertically integrate their different roles and with time dominate and destabilize the sector which would be a threat to the survival of smallholder coffee organizations who are the backbone of the Kenyan coffee sector.

Regulation 14(1) is proposed to be amended for Licences issued by the licensing authority run from 1st October to 30th September of every year and application for renewal of a licence be made to the Authority not late than the 1st day of September in which the current licence is to expire to align the lincensing validity period to the coffee year which runs from 1st September to 30th

October. This will allow harmonized reviews and analysis of the individual players and sector performance within the definite defined period of the coffee year on different parameters and trend analysis.

Regulation 20 is proposed to be amended by deleting clause 20(1) which confined Coffee research to be undertaken by only the Kenya Agricultural and Livestock Research Organization, higher institutions of learning or private entities accredited by the National Commission for Science, Technology and Innovation and that all research findings be validated by KALRO before being rolled out. This provision may discourage on-farm research even by large abled large estates and use of indigenous technical knowledge (ITK) in coffee, especially among smallholder farmers and may also increase the cost of research by requiring validation of all findings by KALRO.

Regulation 22(1) is proposed for amendment by inserting sub-clause (a) to provide for the procedure of appointment of a licensed miller-marketer for the milling parchment and buni coffee and the marketing of clean coffee by growers of a coffee factory by a resolution of members in an Annual General Meeting competitively. This is expected to promote transparency and participation of growers in the appointment of a miller-marketer to handle their coffee as well as promote efficiency in the delivery of these services through the competitive selection of miller-marketers.

Regulation 22(1) is further amended by inserting sub-clause (b) which will require the management of every coffee factory within two months of the end of the crop year to call a meeting of out-growers to choose the registered miller-marketer from amongst at least three miller-marketers invited to make representations to the out-growers. This will allow active participation of out-growers in the selection of miller-marketers, thus promoting transparency and contributing to efficiency in service delivery in these services through a selection of the most eligible miller-marketers.

In addition to the above, the insertion of sub-clause (c) provides for the CECM Agriculture to attend or be represented in the meetings introduced by sub-clause (b). This will ensure these meetings are conducted in accordance with the required procedure, and the will and the interest of smallholder farmers are respected and protected.

An additional sub-clause (d) in regulation 22(1) will require that each registered miller participating in the meeting choose a miller to make all disclosures of all charges and fees necessary to enable farmers to make an informed decision. This will protect the growers from the introduction of new or other hidden costs for services by such millers later during the contract period.

A new sub-clause (e) in regulation 22(1) will require that every resolution made for the appointment of a miller-marketer, shall within fourteen days, be filed with the county government and copied to the Authority. This will allow monitoring of compliance to the agreed terms by the miller-marketer during the period of engagement by the county government and the Authority.

Proposed amendments in Regulation 22(2) introduce new sub-clauses on the conditions of coffee Milling which provide that (a) miller-marketers licensed under this part shall charge up to one per centum of the value of the coffee sold as marketing fees; (b) The milling losses allowable under this clause may be capped at nineteen percent of parchment coffee milled and (c) The cost of coffee milling and related activities (handling, sorting, grading, packaging, warehousing charges) shall not exceed Ksh4,000.00/ton of coffee delivered. This will protect growers from excessive charges for services rendered by miller-marketers and ensure efficiency by capping the allowable losses, thus enabling better returns for growers.

Regulation 23 is proposed for amendment by replacing sub-clause 23(1) and introducing a new clause that prohibits coffee miller-marketers to offer farmers financial support. Such financial support is very inviting to cash strained cooperatives and many times the leadership of such cooperatives commits growers to such support without their knowledge, often leading to high losses due to high-interest rates, unscheduled recoveries from growers' coffee delivered to the millers and some case even total collapse of such cooperatives due to the resulting indebtedness.

Regulation 23 is proposed for further amendment by the introduction of a new clause 23(2) that requires coffee auctions to be managed by an auction organizer licensed by the Authority. This provides for an independent agent to organize auctions thereby promoting transparency in coffee auctions to the benefit of all coffee auction stakeholders.

Regulation 23(3) is proposed for amendment to include the coffee industry actors newly defined in these regulations i.e. Licensed miller-marketers and grower marketers. This amendment provides the legal framework for these two to trade in the coffee auctions.

Regulation 23 is further proposed for amendment by the introduction of new sub-clauses (5) which prohibits the holder of a miller-marketing license to participate by himself or by his agent in the buying of coffee and (6) which prohibits parallel directorships and cross-ownership of shares in miller-marketers and coffee buying companies. This seeks to entrench fair trade practices in coffee marketing and eliminate possible acts of colluding by such players with multiple interests.

In addition, regulation 23 is additionally proposed for amendment by inserting a new clause 23(5) to allow the Nairobi Coffee Auction to establish an auction system for the conduct of auctions for Kenya Coffee and coffees from the region and 23(6) allowing the NCA to develop trading rules for the conduct of auctions of Kenya coffee and coffees from the region in consultation with members from countries who seek to join the regional auction. These rules will guide the operation of the NCA and are important to the smooth operation of the NCA.

This regulation (23) is also proposed for amendment by inserting a new sub-regulation 23(7) which requires an auction organizer to fulfill requirements under the Second Schedule under these regulations which specifies the various eligibility requirements and fees. This clause requires the Auction organizer to fully comply with these requirements and fee payments before being licensed by the Authority.

Regulation 24 is proposed for amendment by inserting a new sub-regulation 24(2) which requires that direct coffee sales be subject to price competition at the Nairobi Coffee Auctions whereby the direct sales price shall serve as a reserve price. This will ensure that coffee farmers will not be victims of depressed prices even from prospective direct sales. Further to this sub-clause 24(2), a new clause 24(3) is proposed for insertion and which where the coffee referred to in subsection (2) fetches a higher price at the Coffee auction than the direct sale price offered, the prospective direct sale buyer shall have the right of first refusal to buy the coffee at the auction price and subsequently if the prospective direct sales buyer refuses to buy the coffee at the Coffee auction price, the coffee shall be sold to the highest bidder above the reserve price at the auction. This provision will guarantee growers of the best possible coffee prices always even then they opt for direct sales.

Regulation 25 is proposed for amendment by amending sub-regulations 25(4) by deleting the term "exchange" and replacing it with the term" auction organizer aligned to the role of the auction organizer introduced in these regulations. In addition, this regulation (25) is further proposed for amendment by inserting a new sub-regulation 25(8) that demands that all payments to growers for coffee sold and for services rendered for such coffee whether by miller-marketers, warehousemen, auction organizers, coffee societies and factories be paid into their individual accounts from the direct settlement system. This will protect payments due to growers and other service providers from possible risks of diversion, misappropriation, and unapproved appropriations and even delayed disbursement of payments.

This regulation is proposed for further amendment by inserting a new sub-clause 25(10) that restricts payments to factories or societies from the direct settlement system for operations and maintenance to five per centum of the value of coffee sold net of the milling, warehousing and marketing costs. This requirement will also assist in protecting the grower's returns from being used to settle excessive milling, warehousing and marketing costs and will foster utmost efficiency in the provision of these services.

Sub-regulation 25(8)(d) of regulation 25 will require an amendment to replace the term" broker" and substitute it with the term "miller- marketer" as per the revised definition of terms in regulation 2 of these regulations.

Sub-regulation 25(8) (h) is proposed for amendment to recognize the role of the auction organizer in setting the volumes, lot sizes, dates and times for holding coffee auctions and determining the order of the sales catalogues for every sale and ensuring that reasonable access to the auction is given to all persons licensed to trade in consultation with grower marketers or appointed miller-marketer in place of the Exchange. This will facilitate smooth operations and encourage participation in the auctions.

Sub-regulation 25(8)(i) is to be amended by deleting the term "broker" and "exchange" and substituting the same with - the term "miller-marketer" and "auction organizer" respectively. This will reflect the revised definitions in the regulations as per regulation 2 of the regulations. In the same way, in sub-regulation 25(8)(j) the term "broker" is proposed to be substituted with - the term "miller-marketer"; in sub-regulation 25(8)(K) the term "exchange" is proposed to be substituted with the term "Auction"; sub-regulation 25(8)(l) is proposed to be amended by deleting the term "broker"; in sub-regulation 25(8)(m) the term "exchange" proposed to be substituted by the term "auction organizer" and the word "overseas" after the words "transferred to the"; in sub-regulation 25(8)(o) the term "exchange" proposed to be substituted by the term "auction organizer"; in sub-regulation 25(9) the term "exchange" proposed to be substituted by the term "auction organizer"; and in sub-regulation 25(10) the term "coffee exchange regulations" proposed to be substituted by the term " coffee trading rules".

Regulation 25 is also proposed for more amendments with the insertion of a new sub-regulation 25(11) that requires commercial banks which express interest in the establishment of a Direct Settlement system to fulfill requirements stipulated under Schedule Two under these regulations i.e. be compliant with the requirements and fees outlined in schedule two of these regulations like all other actors in the coffee industry.

Also, a new sub-regulation 25(12) requires the Nairobi Coffee Auction to enter into service agreements with commercial banks which qualify and are appointed to offer the services of Direct Settlement System services for the coffee subsector. This will ensure seamless operations in the NCA for the NCA will oversight the execution of the service agreements while another new sub-regulation 25(13) will require these commercial banks appointed to offer Direct Settlement Services to submit returns to the coffee auction management as specified by the Exchange which will facilitate the over sighting role of the NCA.

Regulation 26(1) is proposed for amendment sub-regulation by deleting this sub-clause and substituting it with a new sub-regulation that requires a grower marketer or a miller-marketer in consultation with the auction organizer to prepare a sales catalogue for all the coffee in a licensed warehouse in accordance to the coffee trading rules and these Regulations. This will promote documentation in the coffee industry and ensure availability of up-to-date sales catalogue(s) and allow computation of real-time data on coffee stocks available for sale which will support more informed coffee marketing decisions, strategies and policies and the amendment also aligns with the revised sector actors' definitions per regulation 2 of these regulations.

Regulation 32 is proposed for amendment by amending sub-regulation 32(2) which leaves the responsibility of developing a training curriculum, conducting examinations and issuance of certificates for coffee liquorers to the Authority in consultation with industry stakeholders and leaving out accredited universities of higher learning whom may have little exposure to coffee liquoring.

Sub-regulation 32(4) is proposed to be amended to provide for the licensing of independent coffee liquorers which will ensure fair practices in coffee liquoring.

Sub-regulation 32(8) is proposed to be amended to provide for the licensing of independent cupping centres which will ensure fair practices in quality assessment processes at the centres.

Sub-regulation 32(9) is proposed for amendment by replacing the word" exchanges" and substituting thereof with the word "auctions" to align to the revised definitions as per regulation 2 of these regulations. Similarly; 33(2) by inserting the terms "miller-marketer", "grower miller" and "grower marketer"; 33(3)(a) by inserting the terms" food science and technology" after the term "engineering"; regulation 34 34 by deleting the term "millers" and substitute thereof with the terms "miller-marketer", "grower miller" and "grower marketer"; and sub-regulation 37(1) by deleting the words "millers" and substituting thereof with the terms "miller-marketer", "grower miller" and "grower marketer.

Regulation 38 is proposed for complete replacement by a new regulation which provides that the interest rate on borrowing by a coffee factory/cooperative society against growers' assets such as land, machinery, and equipment held in trust by the growers' coffee factories co-operative societies be capped at five percent per annum; and for factories or societies to only contract loans or advances with the support of a resolution passed by a majority of the growers. A breach of these requirements constitutes an offence and any loans borrowed in breach of this provision shall be statutorily converted. However, the proposed amendment provides that the provisions of this section shall not be interpreted as prohibiting coffee farmers from directly borrowing money from regulated financial institutions or any government established funds against their deliveries of cherry, parchment and clean coffee and recognizes that the directorship of a coffee factory is a Fiduciary duty of the position of trust and directors shall hold liable for any waste and loss arising from negligence and breach of trust. These amendments are aimed at protecting farmers' assets from potential risks associated with non-serviced borrowings and holding directors personally responsible and accountable for growers' assets held in trust.

Regulation 46 is proposed to be amended by inserting a new sub-regulation 46 (c) which provides for all marketing agent licenses existing as of 30th June 2021 to remain valid until a Direct Settlement System is established for the processing of coffee sales proceeds and other ancillary services. This will ensure continuity of business uninterrupted during the transition phase until the envisaged changes are fully in place.

The schedules and templates for various forms in the regulations have been proposed for amendment to reflect the newly introduced or revised definition of coffee industry players, coffee products, processes and documents in these amended regulations, revised roles, responsibilities and processes in the coffee industry.

3.2 Affected Groups

i. National Government.
ii. County Governments.
iii. Government agencies – Including AFA, PCPB, KALRO, KEBS, WRA, NEMA

iv. Smallholder coffee farmers.
v. Coffee Cooperative societies
vi. Coffee Producers' Associations/Organizations.
vii. Coffee Factories.
viii. Coffee Estates
ix. Financial and Micro- Financial organizations
x. Agriculture produce warehousing operators
xi. Coffee products processors
xii. Coffee produce and products marketing agents.
xiii. Farm inputs and equipment suppliers;
xiv. Coffee technologies, equipment and machinery suppliers
xv. Coffee industry auxiliary service providers
xvi. Academia and research organizations
xvii. Coffee produce and products Exporters.
xviii. Coffee produce and products Importers
xix. Agricultural advisory services providers

3.3 Effects on the Public Sector

The Constitution of Kenya (CoK) 2010 provides for two levels of government namely the national and county governments. The two levels of government have specific, residual and concurrent functions and powers as provided for under Article 186 and the Fourth Schedule – Part 1: National government and Part 2: County governments and require the two levels of government to cooperate with, support and consult and liaise with each other to exchange information, coordinate policies and administration and enhancing policy. The Fourth Schedule of the Constitution has assigned specified functions on Agriculture to the National Government and the county governments respectively. The national government formulates agricultural policies and strategies to develop the sector. The roles of county governments include agriculture (crop husbandry); implementation of programmes in the agricultural sector to address food security in the county; development of programmes to intervene in soil and water management and conservation of the natural resource base for agriculture; land development services for horticultural production for food security and others.

The proposed Regulations amendments will affect the public sector in the following ways:

i. The Authority will strengthen and streamline the regulatory framework of the coffee industry by having clear identification, definition and distinction of all industry actors and the roles of the different coffee value chain actors and to eliminate conflicting roles by some of these actors which often results in colluding and underhand dealings in the sector to the detriment of other sector actors and especially farmers.

ii. The incorporation of the national body for the time being responsible for standards in the development, oversight and enforcement of quality standards in the coffee sector will facilitate and support the development, implementation and compliance with the standards in the coffee industry.

iii. Continuously inspecting and surveillance of industry players by the Authority to allow the Authority to continuously monitor compliance of all industry players and as well to access their eligibility for issuance or renewal of licenses and oversight the coffee sector performance in general.

iv. Supervision of coffee cooperative societies will be strengthened through the introduction of two five-year term limits for directors of coffee co-operatives, the requirement of not more than two-thirds of the directors being of one gender, and directors to meet the requirements of Chapter Six of the Constitution.

v. The county governments will have a role in the issuance of distinguishing marks and grower codes which will promote the coffee quality and standards compliance and growers' coding and registration for branding and effective produce traceability and also in the registration of miller-marketers at the county level.

vi. The requirement that research in coffee and for results validation be done only by KALRO is removed which will allow on-farm research even for own use by large abled large estates, and use of indigenous technical knowledge in coffee farming especially among smallholder farmers and reduce the cost of research.

vii. The Authority in consultation with industry stakeholders will have the responsibility of developing a training curriculum, conducting examinations and issuance of certificates for coffee liquorers.

viii. The different Licences and fees prescribed in the regulations will generate additional revenue for the Authority.

3.4 Effect on the Private Sector

The private sector actors are critical stakeholders in the coffee industry and include smallholder farmers, coffee cooperatives, coffee estates, and coffee farmer organizations and/or associations; coffee factories, millers, traders and transporters, Coffee marketing agents, warehouses operators, Coffee exporters and importers; financial institutions, non-governmental and civil societies organizations assorted services providers in the coffee industry and a cross-section of entrepreneurs in the sector. Private sector players are the principal drivers of the economy in this industry.

The proposed Regulations will potentially affect the private sector in the following ways:

i. The clear identification, definition and distinction of industry actors and their roles for the different coffee value chain actors will eliminate conflicting roles by some coffee industry actors which often results in colluding underhand dealings in the sector to the detriment of other sector actors and especially farmers.

ii. The licensing of independent coffee auction organizers will ensure fair trading in the coffee auctions devoid of any form of collusion or effects of vested interest by non-independent auction organizers.

iii. The licensing of miller-marketers will allow such millers to engage directly in coffee marketing without having to engage alternative marketing agents at a cost that erodes farmers' incomes.

iv. The incorporation of the national body for the time being responsible for standards in the development, oversight and enforcement of quality standards in the coffee will facilitate and support the sector private sector to meet internationally acceptable standards and branding for entry into alternative global coffee markets.

v. Regular inspections and surveillance of industry private sector players by the Authority will ease the process of issuance or renewal of licenses due to the continuous monitoring of compliance.

vi. Licensing of grower miller means that a grower who mills own parchment or mbuni will market their produce themselves, which encourages more growers to invest in milling facilities, and thus be responsible for the quality of their produce.

vii. Governance in cooperatives will be strengthened through the introduction of two five-year term limits for directors of coffee co-operatives, the requirement of not more than two-thirds of the directors being of one gender, and directors to meet the requirements of Chapter Six of the Constitution, thus improved efficiency and farmers' returns.

viii. Providing for the coffee factory by resolution of its members in an annual general meeting to register as societies under the Co-operative Societies Act will allow them to register as societies and manage their own affairs and avoid inefficiencies within large cooperatives which erode profits of well-performing factories.

ix. Proposed licensing protocol in the industry will prevent a holder of a coffee buyer's licence or any other entity associated with such holder to be licensed as a miller-marketer, roaster or warehouseman to prevent the development of oligopolistic or even monopolistic coffee agencies that would be a threat to the survival of smallholder coffee organizations who are the backbone of the Kenyan coffee sector.

x. Appointment of a licensed miller-marketer for the milling parchment and mbuni coffee and the marketing of clean coffee by growers of a coffee factory by a resolution of members in an annual general meeting competitively. This is expected to promote transparency, members' participation and promote efficiency in the delivery of services and with disclosures of all charges and fees.

xi. The capping of marketing fees, milling losses allowable and cost of coffee milling and related activities (handling, sorting, grading, packaging, warehousing charges) will protect growers from excessive charges for services and ensure efficiency, thus ensuring better returns for growers.

xii. Prohibition of coffee miller-marketers to offer farmers financial support will protect growers from borrowings by society management against the members' assets or coffee deliveries and often leaves societies heavily indebted.

xiii. Prohibiting miller-marketers or their agents from participating in the buying of coffee and also prohibiting parallel directorships and cross-ownership of shares in miller-marketers and coffee buying companies will ensure fair trade practices in coffee marketing and eliminate possible acts of colluding by players with multiple interests.

xiv. Direct coffee sales will be subject to price competition at the Nairobi Coffee Auctions whereby the direct sales price shall serve as a reserve price. This will ensure that coffee farmers will not be victims of depressed prices even from prospective direct sales.

xv. All payments to growers for coffee sold and for services rendered for such coffee whether, by miller-marketers, warehousemen, auction organizers, coffee societies and factories will be paid into their individual accounts from the direct settlement system. This will protect payments due to growers and other service providers from possible risks of diversion, misappropriation, and unallowable appropriations and even delayed disbursement of payments.

xvi. Payments to factories or societies from the direct settlement system for operations and maintenance to five per centum of the value of coffee sold net of the milling, warehousing and marketing costs, protecting farmers from excessive charges.

xvii. Nairobi Coffee Auction service agreements with commercial banks which qualify and are appointed to offer the services of Direct Settlement System services for the coffee subsector which will further secure growers' dues.

xviii. Licensing of independent coffee liquorers and cupping centres will ensure fair practices in coffee liquoring and grading.

xix. The interest rate on borrowing by a coffee factory/cooperative society against growers' assets such as land, machinery, and equipment held in trust by the growers' coffee factories co-operative societies is capped at five percent per annum; factories or societies shall only contract loans or advances with the support of a resolution passed by a majority of the growers; a breach of these requirements constitute an offence and any loans borrowed in breach of this provision shall be statutorily converted. This will protect members' interests in the society/factory.

xx. All marketing agent licenses existing as of 30th June 2021 to remain valid until a Direct Settlement System is established for the processing of coffee sales proceeds and other ancillary services. This will ensure continuity in business during the transition phase until the envisaged changes are fully in place.

xxi. The different licences and fees prescribed in the Amendment Regulations will increase the cost of doing business in the coffee sector.

3.5 Effect on Fundamental Rights and Freedoms

The proposed Regulations shall have a positive impact on fundamental rights and freedoms in the following ways: -

i. **Consumer Protection**

The draft Amendment Regulations seek to promote consumer protection by ensuring quality guarantees of the coffee in the consumption market. Specifically, clause 6 amends the functions of the Agriculture and Food Authority by imposing additional powers to develop, oversee and enforce as the case may be the national regulations, coffee industry standards and industry code of practice and other quality standards in the coffee industry in collaboration with Kenya Bureau of Standards. The amendment regulations also empower the Authority to undertake inspections and surveillance of industry players. These powers are aimed at ensuring that the production, importation and sale of coffee meet the quality standards and that the end product are of merchantable quality. Additionally, clause 10 provides for the clearance and registration of miller-marketer by county governments before issuance of licenses for milling and marketing of coffee to applicants. Compliance with the licensing requirements will ensure that the set standards are observed as measures of consumer protection. The provisions of the amendment regulations, therefore, reinforce consumer protection.

These provisions of the Amendment Regulations are in line with the provisions of article 46 of the Constitution. The Constitution under Article 46(1) guarantees consumers the right to goods and services of reasonable quality. The proposed Amendment Regulations will protect consumers from the consumption of poor-quality coffee.

ii. **Access to information**

Article 35 of the Constitution guarantees the right of access to information held by another person and is required for the exercise or protection of any right or fundamental freedom. This is reflected in the proposed amendment regulations under clause 7 amends regulation 7 of the general regulations and substitutes the registration requirement. The amendment regulations mandate the Authority to undertake registration of all coffee warehousemen, warehouses, coffee mill-marketer, grower marketers, grower millers, auction organizers, coffee buyers, roasters, importers and certification companies, maintain up to date register on them and share the register with respective county governments. The information management systems maintained by the county government including the database on registers will be accessible to the public as necessary for the subsector.

iii. **Affirmative action**

The Constitution provides for equality and non-discrimination. Specifically, Article 27 (8) requires the implementation of the constitutional principle of equality and non-discrimination that not more than two-thirds of the members of elective or appointive bodies shall be of the same gender. The amendment regulations seek to enforce this provision under clause 7 by incorporating provisions mandating the cooperative society to ensure that not more than two-thirds of the members are of one gender while appointing its board of directors.

iv. **Economic and social rights**

Article 43 of the Constitution of Kenya, 2010 provides for economic and social rights. It affirms the right of individuals and communities to an adequate standard of life including the right to be free from hunger and have adequate food of acceptable quality. The proposed Amendment Regulations, if enacted into law, shall create employment opportunities in coffee plantations and production which in turn shall ensure the realization of economic rights.

4.0 REGULATORY AND NON-REGULATORY OPTIONS

This chapter highlights other regulatory and non-regulatory options that could be adopted in regulating coffee in Kenya. The alternatives to rule-based regulation are more flexible than a rule-based approach because they do not require setting the rules out in legislation which then takes more time and effort to develop and change.

4.1 Option 1: Maintaining the Status Quo

Before considering new interventions, it is important to consider whether the problem could be resolved by making changes to practices within the existing regulatory framework, thus maintaining the status quo. Examples of this are: -

i. Making use of existing laws, regulations and/or guidelines;
ii. Simplifying or clarifying existing regulations;
iii. Improving enforcement of existing regulations; or
iv. Making legal remedies more accessible or cheaper.

4.2 Option 2: Passing the Regulations

The Government can achieve its policy objectives by using taxpayer money or through a range of non-spending interventions, including regulation. The purpose of these is to provide for the regulation, promotion and development of the coffee industry in Kenya for the benefit of the Coffee growers and other stakeholders in the Coffee industry. These Regulations aim to set rules to protect and benefit people, businesses and the environment, stabilizing markets and addressing production, processing and market failures to support the development of the industry. Regulations could also create costs for businesses and the public sectors. It could if overused, poorly designed or implemented, stifle competitiveness and growth.

Adoption and operationalization of the proposed regulations will: -

i. Strengthen regulation and surveillance in the coffee industry by having clear identification, definition and distinction of all industry actors and their roles for the different coffee value chain actors.

ii. Streamline and coordinate players within the coffee industry to remove underhand dealings from multiple conflicts of interest by dominant industry players that negatively impact the coffee industry development or on certain actors in the chain including in the production, processing, marketing and export of coffee.

iii. Strengthen governance, efficiency and transparency in coffee cooperatives to the benefit of the societies' membership and the coffee industry in general.

iv. Promote fair trade practices through the introduction of independent coffee auction organizers, coffee liquorers and cupping centres.

v. Capping limits of marketing fees, milling losses allowable, operation and maintenance costs and cost of coffee milling and related activities; and Interest rate on borrowing will protect growers from excessive or exorbitant fees by service providers.

vi. Direct coffee sales will be subjected to price competition at the Nairobi Coffee Auctions whereby the direct sales price shall serve as a reserve price. This will ensure that coffee farmers will not be victims of depressed prices even from purposively direct sales.

vii. All payments to growers for coffee sold and for services rendered will be paid directly into their individual accounts from the direct settlement system. This will protect such payments from possible risks of diversion, misappropriation, and misdirected appropriations or even delayed disbursement.

viii. Farmers' interests and assets including coffee deliveries will be secured by the prohibition of financial support from coffee miller-marketers to societies and the capping of interest on borrowings.

ix. Increase growers' participation in decision making including the appointment of licensed miller-marketer for the milling of their parchment and buni coffee and approval of borrowings.

x. Eligible coffee factories by resolution of their members in an annual general meeting can register as societies under the Co-operative Societies' Act to manage their own affairs and avoid inefficiencies within large cooperatives that erode profits of well-performing factories.

xi. Develop and maintain a realistic database of the coffee industry inclusive of registers on the various coffee value chain actors, coffee production and processing, and coffee stocks movement in Kenya for better sector control and planning.

The Regulations are thus important for the development of the coffee sector and industry for the benefit of all sector/industry stakeholders, especially the coffee farmers and to contribute to the overall development of the agricultural sector in the country in general.

4.3 Option 3: Other Practical Options

Alternatives to regulation include information and education, market-based structures, self-regulation and co-regulation. In addition, existing policies can be improved, without further regulation, using techniques such as behavioral insight or changing enforcement practices to improve compliance. Such approaches may be better or worse for business and the economy than an equivalent regulatory measure.

4.3.1 Alternatives to Regulations

Alternatives to regulation include:

i. **No new intervention/do nothing:**

This may include making use of existing laws (or none) and regulations; simplifying or clarifying existing laws and regulations; improving enforcement of existing laws and regulations, or making legal remedies more accessible or cheaper and as discussed in the section above status quo in the sector is likely to remain since it has been noted that though the Crops (Coffee) (General) Regulations, 2019 were gazetted and have been implemented from 2019 to provide for the regulation, promotion and development of the coffee industry in Kenya, gaps identified in the implementation of these regulations have necessitated their amendment to be able to realize fully the intended purposes of the said regulations.

ii. **Information and education**

Information and education can be used to empower coffee industry actors including farmers and other industry actors and stakeholders to make their own decisions, improving choice for the mutual benefit of all. However, there are potential risks associated with this. The information and education can take time to make an impact. Access to information on the coffee industry is a big challenge as documentation in the industry has remained limited to be useful and still even the ability to use the available information can vary within the sector and the community and so may not reach all equally. It may also not be straightforward to assess how people will react or change their behavior in response to the information provided. It will also increase costs for the government and businesses that will be providing the information and education required.

iii. **Incentive/market-based structures**

The government can use economic instruments, such as taxes, subsidies, quotas and permits, vouchers etc. as initiatives to realize the desired objectives. These initiatives, however, are only practically possible in well-developed and efficiently functioning sectors which have well-defined structures unlike in the Coffee industry whose structures are yet to be properly defined in the country. Further, often these sorts of systems need their own regulation to establish the framework and may have additional costs to the government and are unlikely to be effective in the coffee industry.

4.3.2 Alternatives Models of Regulation

Alternative models of regulation include;

i. **Self-regulation**

Self-regulation entails industry players developing a framework to self-regulate a sector. This could be done through the use of codes of conduct or practice, customer charters, standards or accreditation. In many cases, rules and codes of conduct or practice will be formulated by the industry representatives or organizations under their own initiative. In absence of universal well-developed and all-inclusive industry organizations as in the coffee industry, self-regulation currently cannot be effectively possible.

ii. **Co-regulation**

Co-regulation is an intermediate step between state-imposed and self-regulation that involves some degree of explicit government involvement where the industry may work with the government to develop a code of practice whose enforcement would be by the industry or a professional organization and accredited by the government. In absence of universal well-developed and all-inclusive industry organizations as in the coffee industry, effective co-regulation is not possible currently in the country.

5.0 COST-BENEFIT ANALYSIS (CBA)

This chapter analyses the economic, environmental and social impacts as well as the administrative and compliance costs of adopting the proposed Regulations. It also assesses and quantifies the return on investments of the proposed Amendment Regulations; and how the impact of the proposed Amendment Regulations is likely to be distributed between the public and private sectors.

5.1 Economic Impacts of the Proposed Amendment Regulations

Economic Benefits

The economic benefits of the proposed Regulations are: -

i. Increased coffee production: The increased efficiency in coffee processing and marketing resulting from the different interventions proposed in these regulations including improved governance, capped limits for the processing fee, marketing fees, milling losses allowable, maintenance costs and cost of coffee milling and Interest rate on borrowing will increase returns to growers which will motivate them to improve the management of their coffee, increase acreage and attract other farmers into the sector which will contribute to an increase in agriculture and national GDPs.

ii. Improved Kenya coffee prices: Improved surveillance, monitoring and compliance to the regulations including quality standards will make Kenya's coffee more preferred in the market and will attract premium prices which will cascade to the growers and other service providers along the value chain

iii. Maintain/Create employment: The well-developed and regulated coffee sector in the country will support the maintenance of existing jobs in the industry as well as create new employment opportunities both on-farm and off-farm. On-farm employment opportunities will be created by a need for increased labour for the increasing coffee production as a result of new/increased investments, enhanced access to support services and an enabling environment, (re-)investment in coffee farms and engaging the rural population in production including crop establishment and management, harvesting and sorting. Off-farm employment opportunities will arise from coffee milling and processing and marketing. The industry auxiliary services including financial and insurance services will also create more employment opportunities in these fields.

iv. Increased farm incomes: A streamlined marketing structure with no exploitation of farmers by cartels, increased production and supply of coffee to the market, increased efficiency across processing and marketing processes and increased access to niche markets will increase incomes for farm families and estates engaged in coffee production.

v. Increased trading and value addition in coffee, further contributing to increased agriculture and national GDPs including the development and marketing of branded and specialty Kenya coffees.

vi. Increased foreign exchange earnings from increased regional and international trading and export of coffee

vii. Increased savings and investment by the different actors within the coffee industry by farm families; warehouse operators, traders, processors etc.

viii. The numerous fees prescribed in the regulations will increase revenue collection for the Authority

Economic Costs

Possible economic costs of the proposed regulation are:

i. Effective implementation of the Regulations will require increased investment for compliance and licenses which will increase the cost of doing business. This cost is likely to be transferred to the consumer thus increasing the coffee prices.

ii. Implementation of these regulations will require concerted efforts and investments to support a rigorous and effective regulatory system from the Authority, county governments and other complimenting agencies.

iii. The National and County Governments have to invest in coffee sector stakeholders' education to introduce the regulations to them for their total buy-in before the full and effective implementation.

iv. Given the large number of actors in the coffee-growing zones and the industry and their spread across the country, the investment to monitor for compliance and/or enforcement has to be significant to realize and sustain the benefits of the regulations.

v. The Regulations will also introduce additional transactional costs and bureaucracy due to the many processes envisaged in the Regulations resulting in increased cost of doing business and time delays for businesses.

5.2 Social Impacts of the Proposed Amendment Regulations

Social Benefits

The social benefits of the proposed Regulations are:

i. Source of livelihoods: coffee is of extreme importance to smallholder farmers in the coffee-growing zones and remains the primary and the most important source of livelihood in these zones.

ii. Improved education levels and reduced illiteracy, health and social amenities access in the societies due to improved incomes and improved income distribution, thus improving the social wellbeing of the rural communities.

iii. The reduced tide of rural-urban migration in search of employment opportunities due to increased employment opportunities created by the coffee sector in the rural areas.

iv. Improved income distribution among the farm families and the communities in general and thus reduced inequalities due to production and increased participation of women and youth in the coffee sector

Social Costs

The social costs of the proposed Regulations are:

i. An increase in land area for coffee production may reduce the land available for food production, resulting in reduced food production and thus threatening food security at household, regional and national levels.

ii. Increased coffee production and collection may increase child labour engagement in the revamped and financially attractive coffee industry.

5.3 Environmental Impacts of the Proposed Regulations

The environmental benefits of the proposed Regulations are:

i. Reduced soil degradation due to improved and sustained plant cover from coffee and shade trees.

ii. Improved soil structure and fertility from the recycling of coffee pulp as manure.

The possible negative impact of the Regulations may include: -

i. Increased contamination of water bodies from effluents from increased pulping stations.

ii. Increased soil degradation due to increased soil operations in the establishment and management of coffee fields and application of basal fertilizers.

iii. Increased environmental degradation and loss of important pollinators from the increased use of agrochemicals to support increased and quality coffee production.

iv. Poor disposal of coffee pulp from the coffee millers.

However, with proper and effective implementation of these regulations, these negative environmental impacts can be significantly mitigated and impacts reduced.

5.4 Costs, Benefits Analysis and Assumptions

From the above discussions, it is quite clear that the expected economic, social and environmental benefits from the implementation of the draft regulations heavily outweigh the corresponding costs. The analysis of the cost and benefits of implementation of the draft regulations is however based on the following assumptions: -

i. Implementation of the regulations will be undertaken in a holistic manner where all provisions of the regulations will be implemented and not partially selected provisions being implemented.

ii. The country's development strategies and policy environment will continue to prioritize and support the development of the country's principal cash crops including coffee and the coffee industry in general.

iii. The climatic conditions will remain favorable for coffee production.

iv. Coffee sector actors including commercial coffee farmers' will respond rationally to the implementation of the proposed regulations and voluntarily comply with the proposed regulations.

v. The additional revenue generated from the various fees and levies will be used for the further development of the coffee value chain.

5.5 Administration and Compliance Cost

RIA noted that resources would be required for operationalization of the regulations which will include human resources and operation costs for inspections and enforcement as well as for awareness creation of the regulations to the different coffee producers and coffee industry players. It is assumed that additional resources will go to the implementation of the wider national agricultural and trade policies which support coffee production, coffee processing research and development, provision of advisory services to commercial coffee farmers for strengthening knowledge transfer and technology distribution among the farmers, capacity building of industry actors, and in the implementation of the regulations, individual national coffee industry, agricultural and trade strategies, the Government's Big 4 agenda, Vision 2030, County CIDPs and other relevant sector national policies and strategies.

5.6 Assessment of Return on Investment (Benefit)

Passing and operationalization of the proposed regulations will be critical in facilitating the development of the coffee sector first by further streamlining the structure of Kenya's coffee industry to allow coordinated regulation of the coffee value chain, create a level play field for all value chain players and promote fair trade practices to support the production, processing and marketing of coffee which will contribute to the realization of Kenya's manufacturing pillar's aspirations as envisioned in the Big 4 agenda, ASGTS and the agricultural sector and national objectives in the vision 2030 development blueprint.

The proposed regulations will in particular reform the processing of coffee in Kenya which has remained a weak link in the value chain due to the high losses experienced both in quality and quantities during processing and the high charges that growers have to meet for processing services and processors' dishonesty. Coffee millers have not been bearing any responsibility to their clients for their produce and growers have had no role in the processing of their coffee. The proposed regulations will change this and will give the growers a voice on the appointment and over the sighting of millers and the contracts signed with millers will cap the allowable milling losses to 19% of parchment coffee milled and the cost of coffee milling and related activities (handling, sorting, grading, packaging, warehousing charges) not to exceed Ksh4,000.00/ton of coffee delivered. This will protect growers from excessive charges for services rendered by miller-marketers and ensure processing efficiency thus enabling better returns for growers.

Equally, in marketing the regulations cap marketing fees at up to one per centum of the value of the coffee sold while also granting an independent auction organizer the role of conducting business at the coffee auction from the Exchange as the case has been. The introduction of an independent auction organizer, independent coffee liquorers and licensing of cupping centres will ensure fair trade practices in quality assessment processes and the coffee auctions.

The regulations will also ensure separation of roles within the coffee industry and prevent the possibility of coffee buyers developing into oligopolistic or even monopolistic coffee agencies that would vertically integrate multiple roles in the sector from buying, processing and marketing coffee, and with time dominate and destabilize the sector which would be a threat to the survival of smallholder coffee organizations who are the backbone of the Kenyan coffee sector.

The regulations also propose a raft of interventions that will strengthen governance in the coffee cooperative societies including limiting Directors' term of service to two terms of 5 years each, 1/3 gender representation, the integrity of Directors and increased participation of members in the making of key decisions such as the appointment of service providers and borrowing of finances. This is expected to enhance the performance of these cooperatives and reduce losses, reduce colluding in underhand deals of the society management decision making and unapproved borrowing which has driven many coffee cooperatives into unserviceable debts.

In broad terms, the RIA notes that the following broad benefits and returns on investment will be achieved: -

i. The Regulations will support reform of the coffee industry into a well-structured, streamlined, and regulated industry with clearly defined roles and mandates for the different industry actors and will specifically transform and improve coffee processing and marketing for the benefit of all coffee sector stakeholders and the country.

ii. Promote coffee quality standards and further value addition including specialty coffee, the development and application of distinguishing marks and growers coding which will promote sector documentation, quality assurance and also will improve the competitiveness of Kenya's coffee in the regional and global coffee and niche coffee markets.

iii. Support the development of coffee agro-enterprises including among smallholder farmers through the licensing of grower-millers who have generally faced challenges to establish themselves in an industry dominated by a few and which will allow such growers to be responsible for the quality of their produce as well as avoid high processing costs charged by service providers.

iv. Improved access to comprehensive reliable data and information continuously maintained by the Authority and the different actors in the coffee sector will provide a planning and decision-making basis both for the Government and private sector businesses in the coffee value chain and industry in general.

v. Sustain and create additional employment opportunities both on-farm and off-farm across the coffee sector and supportive industry auxiliary services, trading and marketing, processes within the sector.

vi. Strengthen governance, efficiency and transparency in coffee cooperatives to the benefit of the societies' membership and the coffee industry in general and for the sustainability of the cooperatives.

vii. Increased incomes for coffee producers resulting from increased coffee production, reduced production costs, improved coffee quality and thus better coffee prices, further coffee value addition and fair trade practices, and thus improved livelihoods and social well-being of the rural communities.

viii. Increased national coffee production, quality and trading will translate into increased foreign exchange earnings, improved balance of trade with specific trading partners, and an increased contribution to the agricultural and national GDP.

ix. Regulate coffee imports and exports thus controlling illegal trade actions that can negatively impact the Local coffee and export markets by distorting demand and prices.

5.7 Quantification of the Benefits

The proposed amendments in the regulations mainly introduce various structural changes in the processing and marketing of coffee and seek to define, distinguish and separate the roles of the different actors in coffee processing and marketing in Kenya's coffee industry to streamline this industry. Kenya's coffee industry is characterized by wide variances across all parameters that can be used to quantify the benefits or the cost of the proposed changes, for example, the average yield is estimated at 302kg/ha for smallholder farms and 556kg/ha for estate farms; while Cooperative societies are required by law to pay farmers at least 80% of the total upon delivery of their cherries, cherry repayment rates differ from region to region and from society to society, ranging from 84.6% to as low as 10.2%; Further, according to KALRO, the highest production cost is Kshs 52.30/kg while the lowest production cost is Kshs 10/kg depending on different varieties and management style. (Country Coffee Profile: Kenya, 2019).

Equally, the costs for processing and marketing vary widely as these two nodes of the value chain have been dominated by cartels who are out to maximize profits above everything else and unfortunately, growers and especially smallholder farmers have no control over these two nodes. Smallholder farmers often are also victims of underhand deals between these cartels and cooperative society management who cut deals on the cost of services in these two areas for personal gains which makes the actual cost of processing and marketing vary very widely and difficult to determine.

These wide variations make it difficult to establish a factual representative cost-benefit analysis of the proposed amendments due to the absence of universally accepted standard base figures.

The proposed regulations however introduced do specify and quantify expected results for selected key different parameters in various coffee processing and marketing processes. These include: -

i. Licensed miller-marketers shall charge up to one per centum of the value of the coffee sold as marketing fees.

ii. The milling losses allowable under this clause may be capped at nineteen percent of parchment coffee milled.

iii. The cost of coffee milling and related activities (handling, sorting, grading, packaging, warehousing charges) shall not exceed Ksh4,000.00/ton of coffee delivered.

iv. Payments to factories or societies from the direct settlement system for operations and maintenance shall be five per centum of the value of coffee sold net of the milling, warehousing and marketing costs.

v. The interest rate on borrowing by a coffee factory against growers' assets held in trust by the growers' coffee factories and coffee co-operative societies such as assets, land, machinery, and equipment, shall be capped at five percent per annum.

As shown in the table below, the average cost of milling one tonne of parchment in the selected coffee millers is Kshs. 5765.00. With the regulations capping the milling tariffs at Kshs. 4000.00 a saving of Kshs. 1765.00 per tonne of parchment will be realized which represents a saving of about 31% on average on milling tariffs and which goes back to the growers, thereby increasing their returns. The savings will be greater for growers whose millers have been charging higher tariffs than the average of Kshs. 5765.00 per tonne of parchment-like Kipkelion, Great Rift Valley Mill and NGK (Kshs. 7410.00 per tonne); Gusii and Kahawa Bora (Kshs. 6270.00) translating to 46% and 36% savings on milling tariffs which would significantly change the returns growers receive.

Table 1: Comparative analysis of milling tariffs for selected millers in Kenya

No	Miller	Milling tariffs ($)per tonne of parchment	Milling tariffs (Kshs) per tonne of parchment	Proposed milling limit per tonne (Kshs)	Milling tariffs savings/ tonne (Kshs)	Percent milling tariffs savings (%)
1.	CKCM	45	5130	4000	1130	22.0
2.	NKG	65	7410	4000	3410	46.0
3.	Gusii	55	6270	4000	2270	36.2
4.	Kipkelion	65	7410	4000	3410	46.0
5.	NKPCU affiliates	40	4560	4000	560	12.3
6.	Sasini	55	6270	4000	2270	36.2
7.	Thika Coffee Mills	45	5130	4000	1130	22.0
8.	CMS Eldoret	45	5130	4000	1130	22.0
9.	Great Rift Valley Mill	65	7410	4000	3410	46.0
10.	Kahawa Bora	55	6270	4000	2270	36.2

11.	Othaya FCS mill (Ksh 6 per kg)	53	6042	4000	2042	33.8
12.	Tharaka Nithi	40	4560	4000	560	12.3
13.	Meru County Coffee Mill	40	4560	4000	560	12.3
14.	Lower Eastern Coffee Mill	40	4560	4000	560	12.3
	Average	**51**	**5765**	**4000**	**1765**	**30.6**
	Exchange rate $ 1 = Kshs 114.00					

(Source: AFA)

Similarly, the capping on allowable interest rates on borrowing by coffee cooperative societies at 5% per annum will generate additional savings which will further increase returns to smallholder coffee growers who are members of these societies. The current interest rate the cooperatives have to pay for borrowing from commercial sources is between 12 – 24%. Capping the interest rates on cooperatives' borrowing at 5% as proposed in these regulations will translate to savings on interest payable on borrowing by between 7 – 19% as shown in the table below, a saving that will further enhance returns to growers.

Table 2: Interest rate savings on borrowings with capped interest rates.

Credit source	Current rates (%)		Proposed Limit (%)	Savings on Interest rates (%)	
	Minimum	Maximum		Minimum	Maximum
Commercial	12	24	5	7	19

(Source: AFA)

Additional savings that will further increase returns to farmers will be realized from other proposals in these regulations including the introduction of a maximum allowable loss in the processing of 19%, limiting marketing fees to a maximum of 1% and limiting operations and maintenance costs payable to factories to 5% and with all savings accrued expected to return to the growers, the profitability of the coffee enterprise is set to significantly improve and make the crop once again attractive to farmers.

From the above discussion, it can be concluded that the implementation of the amendments to the proposed regulations will no doubt transform the coffee industry in Kenya with clear benefits that outweigh the resultant costs of the implementation of these amended regulations to the benefit of all coffee stakeholders and particularly the coffee growers and will be important in supporting efforts to revitalize the coffee industry to its former status as a key crop contributing to livelihoods of millions of Kenyans and leading in foreign exchange earning industry in the country.

6.0 REASONS WHY OTHER REGULATORY OPTIONS ARE NOT APPROPRIATE

6.1 Option 1: Maintaining the Status Quo

Maintaining the status-quo will mean the country does not reform the regulatory framework and structure to support the promotion, development, processing, marketing, and regulation of the coffee industry for the benefit of growers and other stakeholders in the industry which will deny coffee farmers, millers, marketers and other interested parties the prospects to benefit from the many opportunities in an organized and streamlined coffee industry while also curtailing realization of the country's agricultural and national development objectives, including the following:

i. Organized cartels will continue to dominate coffee buying, processing and marketing in the country to the detriment of all other actors in the sector including growers and especially smallholder farmers' new investors by distorting market demand, prices and quality specifications. This will discourage growers and may frustrate some farmers to even uproot the crop and discourage new entrants into the sector.

ii. The cost for key services in the processing and marketing of coffee will remain exaggerated which will erode growers' returns, making the coffee enterprise appear unprofitable compared to other cash crops and other farm enterprises which may drive farmers from the crop.

iii. Coffee cooperative societies which handle most smallholders' produce will continue to operate dismally with poor governance, high milling losses, unwarranted high-cost borrowings and indebtedness, corruption deals and discouraging participation of women and youth in the industry which may also frustrate growers to abandon the crop.

iv. The maintenance of the existing jobs in the industry and the anticipated employment opportunities to be created by a revamped coffee sector will not be realized.

v. Maintenance of coffee production, processing and marketing data in the country will not be mandatory and future coffee industry planning and decision making by both public and private sector industry actors will not be based on any reliable real-time data and information.

vi. Eligible growers will be denied the opportunity to mill their own coffee by being licensed as grower-millers and thereby take responsibility for the quality and losses of their produce.

vii. Milling losses will remain high, increasing losses, especially for farmers resulting in declining returns and thus livelihoods for farmers and other actors' traders who rely on coffee for income.

viii. The quality of Kenyan coffee particularly from smallholder farmers will continue to remain poor and thus attracting low prices or even market rejection.

The situation is undesirable, and the RIA recommends that the proposed Regulations amendments be implemented to realize the optimal development, promotion, and regulation of the coffee industry for the benefit of the coffee industry actors and other stakeholders across the wider coffee value chain in the country for this industry to effectively contribute to the realization of the objectives of the ASGTS, the Government's Big 4 Agenda and Vision 2030 and the respective Counties' CIDPs and the different county policies and strategies on agricultural development.

6.2 Option 2: Other Practical Options

Alternatives to regulation include:

i. **No new intervention/do nothing**

This may include making use of the existing regulations and laws; simplifying or clarifying existing regulations and laws; improving enforcement of existing regulations; or making legal remedies more accessible or cheaper. However, with this approach, the status quo is likely to remain as the Crops (Coffee) (General) Regulations, 2019 have been implemented from the year 2019 and gaps identified have necessitated these proposed amendments. In absence of any new intervention, the coffee sector would therefore remain as it currently is and this will be to the detriment of all the sector stakeholders and the country in general.

ii. **Information and education**

Information and education can be used to empower stakeholders to make their own decisions, improving choices for the mutual benefit of all. However, information and education can take time to make an impact and still may not be acceptable to all. This approach may increase costs for the government and businesses that will be providing the information and education required. The desired objectives are unlikely to be realized within a reasonable time for the common good of all.

iii. **Incentive/market-based structures.**

The government can use economic instruments, such as taxes, subsidies, initiatives to realize the desired objectives. These initiatives however are only practically possible in well-developed and efficiently functioning sectors which have well-defined structures and often these sorts of systems need their own regulation to establish the framework and may have additional costs to the government and are unlikely to be effective in the coffee sector in Kenya as its structures are yet to be well developed.

6.3 Alternatives Models of Regulation

i. Self-Regulation

The coffee sector in the country does not have a universal all-inclusive industry representation that could formulate and implement codes of conduct or practice, customer charters, standards or accreditation system acceptable to all sector actors for self-regulation and the necessary mechanisms to monitor the effective implementation of such self-regulation. This makes effective self-regulation in the coffee sector as it is currently not possible.

ii. Co-Regulation

Co-regulation is an intermediate step between state-imposed and self-regulation that involves some degree of explicit government involvement where the industry may work with the government to develop a code of practice whose enforcement would be by the industry or a professional organization accredited by the government. The coffee sector in Kenya currently has no universally accepted and all-inclusive industry representative organization(s) that can mobilize and organize the actors towards this and thus co-regulation is practically not possible currently.

7.0 OUTCOME OF STAKEHOLDER PARTICIPATION

This chapter examines the legal requirements for public participation. It also analyses the outcomes of the public consultations conducted in the making process of the proposed Crops (Coffee)(General)(Amendment) Regulations 2022 to assess whether the consultations meet the statutory threshold set under the Constitution 2010 and the Statutory Instruments Act, 2013 for public participation in Kenya.

7.1 Legal Basis for Public Participation

The Constitution of Kenya provides for national values and principles of good governance which include the participation of the people of Kenya. Article 10 provides for the involvement of the people in the enactment of any law. The national values and principles bind all state organs, state officers, public officers and all persons whenever they, *inter-alia*, apply the Constitution and enact any law.

The courts of law have in several instances provided for the modes of ensuring public participation is effective. For instance, in ***IEBC v NASA-Kenya & 6 others [Para 164-5]***; the Court of Appeal stated:

> *"...the mode, degree, scope and extent of public participation is to be determined on a case by case basis. What is critical is a reasonable notice and reasonable opportunity for public participation. In determining what is reasonable notice a realistic time frame for public participation should be given. In addition, the purposes and level of public participation should be indicated. Reasonableness is also to be determined from the nature and importance of legislation or decision to be made, and the intensity of the impact of the legislation or decision on the public. The length of consultation during public participation should be given and the issues for consultation. Mechanisms to enable the widest reach to members of the public should be put in place; if the matter is urgent the urgency should be explained."*

Further, in ***Poverty Alleviation Network & others v President of the Republic of South Africa & 19 others, CCT 86/08 [2010] ZACC 5***, public participation was emphasized in the following terms:

> *"...engagement with the public is essential. Public participation informs the public of what is to be expected. It allows for the community to express concerns, fears and even to make demands. In any democratic state, participation is integral to its legitimacy. When a decision is made without consulting the public the result can never be an informed decision..."*

The court summarized the principles considered when determining whether or not public participation meet the statutory and constitutional threshold in the case of ***George Ndemo Sagini v Attorney General & 3 others [2017] eKLR*** as follows:

i. There is no template for public participation in every situation and what is generally required is that at the end of the day, the public and all interested parties are given a reasonable opportunity to know about an issue (legislative or policy in nature) and to make representations on it.

ii. What amounts to a reasonable opportunity depends on the circumstances of each case and the quality of the opportunity and the material proposals made.

iii. The representations should be of diverse interests.

iv. A flexible approach is necessary to account for the variations that exist e.g. population density, literacy trends, media use and distance from the centre.

v. For the participation to be meaningful, citizens must have the capacity to understand the issue(s) at hand.

vi. It does not matter that elected representatives may well have the final say in the matter.

vii. Public participation is both direct and through such representatives.

The totality of all those pronouncements therein reproduced brings forth the following cardinal points: -

i. Public participation was never intended to be a superfluous or ornamental suggestion; rather, it should be implemented and enforced to have a practical substantive bite.

ii. Public participation must never be a mere cosmetic venture, formality and public relations exercise, rather it ought to be conducted in a manner that informs the public of what is at stake, and how it will impact the society and the end document should mirror and reflect the spirit of the public in concern.

iii. Public participation should never be equated to mere consultations. The product of legislation ought to be a true reflection of the public participation so that the end product bears the seal of approval by the public.

7.2 Stakeholders Engagement

The Ministry conducted public participation workshops in different counties targeting specific stakeholders likely to be affected by the amendment regulations. Through the Agriculture and Food Authority, the Ministry sent invitation letters to various counties requesting them to facilitate the attendance of stakeholders within their regions to the public participation fora on the proposed amendment regulations.

The public participation workshops were undertaken in the following counties as follows; On 29th December 2021, the Ministry held a public participation workshop at Mt. Elgon Coffee Mills. The meeting was attended by the participants from Bungoma, Kakamega and Busia counties. On 30th

December 2021, the Ministry held a stakeholders' engagement workshop at Nyamira KIE Hall. The workshop was attended by representatives from Nyamira, Migori and Kisii counties. On 31st December 2021, the Ministry held a stakeholder workshop in Kabarnet which was attended by stakeholders from Baringo county.

On 4th January 2022, the Ministry held a public participation workshop at Gatundu Teachers College. The workshop was attended by participants from Kiambu county. Some of the participants included farmers and farmers' associations, representatives from the AFA-coffee directorate and crop directorate, coffee traders, stockists, coffee cooperative societies and coffee estates.

On 5th January 2022, the Ministry undertook public participation workshop in Machakos Catholic Hall which was attended by participants from Machakos and Makueni counties. Some of the participants included the media house, representatives from the county government, cooperative societies, farmers, AFA coffee directorate, representatives from coffee estates, self-help groups, representatives from cooperative societies, coffee traders and stockists.

On 6th January 2022, the Ministry held a consultative workshop at Kutus ACK Hall which was attended by participants from Kirinyaga, Nyeri, Murang'a and Embu counties. The workshop was attended by CECs from counties responsible in charge of agriculture, AFA coffee directorate and crop directorate, farmers and farmers' associations, cooperative societies, coffee estates, University of Embu, Kirinyaga University, coffee traders and stockists.

On 7th January 2022, the Ministry held a stakeholders' engagement at Kamunde Hall which was attended by participants from Meru and Tharaka Nithi counties. The participants comprised representatives from the county government Ministry of agriculture, coffee estate and coffee cooperative societies, coffee traders and stockists, representatives from AFA, farmers and farm owners, and media houses among others.

The records from the public fora show extensive deliberations on several issues that arose from the proposed Regulations. For instance, some of the issues raised by the stakeholders included the tenure of the office of cooperative directors, the term of licenses issued under the regulations, the per centum charge by miller marketers licensed under the general regulations, a cap on the allowable milling losses, cost of coffee milling and related activities among others.

The participants were also allowed to review the amendment regulations through the circulation of the regulations to them immediately after the consultative meetings and allowed to send additional comments via email to the technical team. From the records of public participation, it was apparent that the Ministry and the technical team collated, reviewed and incorporated into the proposed amendment regulations the issues raised and comments received from the public participation workshops.

7.2.1 National Level Consultations (Government)

The Ministry of Agriculture, Livestock, Fisheries and Cooperatives through the Directorate of Crop Development facilitated the public participation fora and participated in the public consultative forums among other national institutions. Additionally, Agriculture and Food Authority (AFA) provided useful comments for the development of the proposed Regulations.

7.2.2 County Governments Level Consultations

From the records shared by the Ministry, there was evidence on record to show that representatives of various county governments were consulted or participated in the process of the review of the proposed amendment regulations.

The Ministry held public participation workshops in 7 regions targeting 16 counties that are likely to be affected by the proposed amendment regulations. The venues were selected based on the centralized county and other county governments were able to attend and participate in the fora. The following Counties participated in the public fora; Bungoma, Kakamega, Busia, Nyamira, Migori, Kisii, Baringo, Kiambu, Machakos, Makueni, Kirinyaga, Nyeri, Murang'a, Embu, Meru and Tharaka Nithi counties.

7.2.3 Research and Academia

The research and academia fraternity were also represented in the review process of the proposed amendment regulations. For instance, representatives from the University of Embu and Kirinyaga University attended the public participation workshop held in Kirinyanga county.

7.2.4 Private sector

Different stakeholders from the private sector were able to attend the public fora held in different counties. For instance, there was the representation of farmers and farm owners, farmers associations, cooperative societies, coffee traders and stockists, self-help groups, and investment companies among others.

7.3 Stakeholder Views

The issues raised by stakeholders included the deliberations focused on the tenure of the office of cooperative directors, the term of licenses issued under the regulations, the per centum charge by miller marketers licensed under the general regulations, a cap on the allowable milling losses, cost of coffee milling and related activities among others.

7.4 Assessment of Adequacy of Public Participation Process

The Ministry undertook a mapping of various stakeholders from different levels as required in the Statutory Instruments Act, 2013. The Ministry targeted coffee growing and production counties and specifically the farmers and farm owners, farmers' associations, cooperative societies, coffee traders and stockists, self-help groups, and investment companies, CEC members of agriculture and the County Director of Agriculture (CDA) among others.

Research institutions such as the University of Embu and Kirinyaga University attended the public participation workshops and as well made useful comments on the proposed amendment regulations.

Articles 1 and 6 and Chapter 11 of the Constitution recognize the devolved government. Paragraph 1, Part 2 of the 4th Schedule to the Constitution of Kenya recognizes agriculture which includes plant and animal disease control as a devolved function now placed under the mandate of the county governments. In this regard, it was noted that there was adequate consultation with the county governments. The representatives of different counties were consulted or participated in the process of review of the proposed Regulations.

The outcome and the comments from the workshops were useful in the review of the proposed Regulations. The private sector was also allowed to participate in the workshops. The Consultant has reviewed the various records of public participation and the Ministry's matrix on implementation of the stakeholder's comments and was satisfied that the draft amendment regulations incorporated the comments and suggestions received from the stakeholders.

Overall, the formulation of the Crops (Coffee)(General)(Amendment) Regulations 2021 was fully compliant with the law relating to public participation and stakeholder engagement in Kenya.

8.0 ENFORCEMENT AND COMPLIANCE

This chapter examines the effectiveness of the enforcement measures and compliance requirements provided in the proposed regulations.

The proposed Regulations have established institutions at national and county government levels responsible for the enforcement to ensure compliance among industry players. At the national level, the Agriculture and Food Authority through the Coffee Directorate shall be responsible for implementing the proposed regulations, facilitating and coordinating activities in the sector. At the county level, the respective County Government through the Department responsible for Agriculture shall be responsible for implementing the proposed regulations, facilitating and coordinating activities in the sector

The following regulatory tools have been proposed to aid in ensuring compliance with the proposed regulations: registration and issuance of licenses, distinguishing mark and grower code, prohibitions of certain activities and criminal sanctions which include the imposition of fines and imprisonment against contravening party.

Regulation 7 of the proposed Regulations requires AFA to register all coffee warehousemen, warehouses, coffee miller-marketer, grower marketers, grower millers, auction organizers, coffee buyers, roasters, importers, and certification companies.

Regulation 9 of the proposed Regulations require the county governments in consultation with AFA to register and issue a distinguishing mark and a grower code to coffee estate and cooperative societies to avoid duplication across counties.

Regulation 11 of the proposed Regulations require AFA to issue a grower marketer licence to allow the grower to market his own coffee, an auction organizer license to allow coffee auctions and a miller marketer license to allow the miller to conduct the business of milling and marketing coffee at a fee.

Regulation 18 of the proposed Regulations prohibits coffee miller marketers from offering financial support to farmers. Regulation 19 (c) prohibits a person from having parallel directorships and cross-ownership of shares in miller marketers and coffee buying companies.

Regulation 19 of the proposed Regulations criminalizes the act of a holder of a miller marketing licence to participate in the buying of coffee.

The proposed regulations do not propose an avenue to resolve any disputes arising from the implementation of the proposed regulations. However, any disputes arising from the implementation of the proposed regulations shall be resolved in accordance with regulation 40 of the Coffee General Regulations 2019.

9.0 REVIEW, MONITORING AND EVALUATION

Monitoring and evaluation (M&E) of the regulations is important in determining their effectiveness, efficiency and adequacy in achieving their intended objectives and purpose. It informs the government and players in the sector whether the regulations are working. Proper use of M&E mechanisms constitutes a major change in the operational style and working culture of regulatory authorities that enables them to set up a process of continuous learning through experience and evidence. A well-functioning system of M&E would directly influence the ability of regulations to foster competitiveness and economic growth in the sub-sector. A review of regulations will ensure it is consistent and effective in regulating the activities in the sub-sector.

It is expected that the Regulations shall be a subject of great interest to all stakeholders particularly because of their potential to offer improvement in incomes, create employment, reduce poverty and enhance the living standards of Kenyans. The Ministry of Agriculture working together with the County Governments and AFA should work hand in hand to initiate, facilitate and promote research and surveys to review the adequacy and effectiveness of the regulations towards promoting the growth and development of the industry that will increase the production and sale of coffee. The information collected from the research and the various stakeholders in the sector may be used to enhance prudent planning and decision making process and also enable AFA and the County Governments to conduct a survey of the sector to find out whether the objectives of the regulations have been met and identify areas for improvement.

Regulation 7 of the proposed Regulations require AFA to maintain an up-to-date register of coffee warehousemen, warehouses, coffee miller-marketer, grower marketers, grower millers, auction organizer, coffee buyers, roasters, importers, and certification companies and share the information with county governments. This will provide critical real-time data and information to the government of all the players in the coffee sub-sector. This information is important in planning and decision-making on the production, distribution and marketing of coffee in the country.

10.0 CONCLUSION AND RECOMMENDATIONS

This chapter provides other laws and policies that could complement the proposed regulations. It also provides the concluding observations regarding the proposed regulations and makes a specific recommendation on whether the proposed regulations should be adopted and implemented.

10.1 Conclusion

The proposed Regulations if approved and effectively implemented will strengthen formal controls and regulations in the coffee industry and streamline the industry structures and environment including roles of all the different sector actors, monitoring and surveillance, and compliance enforcement structures and enhance efficiency while regulating costs of services to support the revitalizing and development of the coffee industry for the benefit of coffee growers and all other stakeholders.

10.2 Recommendation

The RIA thus recommends the passing and operationalization of the proposed regulations.

10.3 Linking the Proposed Regulation to Other Regulations

The assessment by the RIA certifies that the regulations will be complemented by other laws and regulations. The proposed Coffee Amendment Regulations are linked to many other laws and regulations in Kenya including: -

i. Agricultural Finance Corporation Act, Cap 323
ii. Agricultural Produce (Export) Act, Cap 319
iii. Auctioneers Act, Cap 526
iv. Co-operative Societies Act, Chapter 490
v. County Governments Act, 2012
vi. Crops Act, 2013
vii. Data Protection Act, 2019
viii. Disposal of Uncollected Goods Act, 1987
ix. East African Community Agriculture and Rural Development Policy provided under Article 105 of the Treaty for the Establishment of the East African Community
x. Environmental Management and Co-Ordination Act, 1999 (Act No. 8 of 1999) revised in 2015
xi. Food, Drugs & Chemical Substances Act, Cap 254
xii. Insurance Act Cap 487
xiii. Kenya Vision 2030
xiv. Micro- and Small Enterprises Act, No. 55 of 2012
xv. Moveable Property Security Rights Act, 2017
xvi. National Agricultural Research Systems Policy, 2012
xvii. National Agricultural Sector Extension Policy, 2012
xviii. National Cereals & Produce Board Act, Cap 338
xix. National Environment Policy, 2013
xx. National Environmental Management Authority (NEMA) Regulations, 2006
xxi. National Food and Nutritional Security Policy, 2012
xxii. National Food Safety Policy, 2013
xxiii. National Trade Policy, 2009
xxiv. Public Audit Act, 2015
xxv. Public Finance Management Act, 2012
xxvi. Public Health Act, Cap 242
xxvii. Public Officers Ethics Act, 2003
xxviii. Relevant County Policies and Legislation
xxix. Science, Technology and Innovation Act, No. 28 of 2013
xxx. Sessional Paper Number 6 of 1999 on Environment and Development Policy
xxxi. Standards Act, Cap 496
xxxii. Statutory Instruments Act, 2013
xxxiii. The Constitution of Kenya, 2010

xxxiv. The Kenya Agricultural and Livestock Research Act, 2013 (No. 17 of 2013)
xxxv. Trade Description Act, Cap 513
xxxvi. United Declaration of Human Rights
xxxvii. Warehouse Receipts System Act, 2019
xxxviii. Weights and Measures Act, Cap 513

END OF THE REPORT

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REGULATORY IMPACT STATEMENT (RIS)

MINISTRY OF AGRICULTURE, LIVESTOCK, FISHERIES AND COOPERATIVES

AGRICULTURE AND FOOD AUTHORITY
(COFFEE DIRECTORATE)

REGULATORY IMPACT STATEMENT (RIS)

THE CROPS (COFFEE)(GENERAL)(AMENDMENT) REGULATIONS, 2022

JUNE, 2022

MINISTRY OF AGRICULTURE, LIVESTOCK, FISHERIES AND COOPERATIVES

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REGULATORY IMPACT STATEMENT (RIS)

THE CROPS (COFFEE)(GENERAL)(AMENDMENT) REGULATIONS, 2022

JUNE, 2022

1.0 Introduction

The Regulatory Impact Statement for the proposed The Crops (Coffee)(General)(Amendment) Regulations, 2022 was prepared in accordance with the provisions of sections 6 and 7 (1) and (2) of the Statutory Instruments Act, 2013. Section 6 of the Act requires the Regulation Making Authority to prepare a Regulatory Impact Statement for the proposed regulations indicating the costs and benefits of the proposed regulations on the public and stakeholders. Section 7(1) and (2) of the Act set out the contents of a regulatory impact statement for the proposed regulations as follows:

2.0 A Statement of the Objectives and Reasons for the Proposed Regulations

The proposed regulations seek to amend the provisions of the Crops (Coffee)(General) Regulations 2019 and enhance the regulation of the coffee subsector in Kenya. Specifically, the purpose and object of the regulations include to;

i. Give effect to section 40 of the Crops Act, 2013;
ii. Provide for licences to be issued by the licensing authorities;
iii. Provide for the obligations of licence holders and service providers, and the protection and regulation of their interests along the value chain;
iv. Recognize the grower of coffee as the owner of coffee until the coffee is sold and paid for;
v. Provide for the protection of growers' rights along the value chain;
vi. Provide for a transparent and timely clearing and settlement of coffee sales proceeds to the growers and service providers;
vii. Provide for the collection and maintenance of data related to coffee;
viii. Ensure improvement of coffee standards, increased production and support; and
ix. Regulate the coffee industry in Kenya.

3.0 Statement on the Effect of the Proposed Regulations

3.1 Effect on the Public Sector

i. The Authority will strengthen and streamline the regulatory framework of the coffee industry by having clear identification, definition and distinction of all industry actors and the roles for the different coffee value chain actors and to eliminate conflicting roles by some of these actors which often results in colluding and underhand dealings in the sector to the detriment of other sector actors and especially farmers.

ii. The incorporation of the national body for the time being responsible for standards in the development, oversight and enforcement of quality standards in the coffee sector will facilitate and support the development, implementation and compliance with the standards in the coffee industry.

iii. Continuous inspections and surveillance of industry players by the Authority to allow the Authority to continuously monitor compliance of all industry players and as well to access their eligibility for issuance or renewal of licenses and to oversight the coffee sector performance in general.

iv. Supervision of coffee Cooperative Societies will be strengthened through the introduction of two five-year term limits for directors of coffee Co-Operatives, the requirement of not more than two-thirds of the directors being of one gender, and directors to meet the requirements of Chapter Six of the Constitution.

v. The county governments will have a role in the issuance of distinguishing marks and grower codes which will promote the coffee quality and standards compliance and growers coding and registration for branding and effective produce traceability and also in the registration of miller- marketers at the county level for approval of miller licence applications before issuance by the Authority.

vi. The requirement that research in coffee and for results validation be done only by KALRO is removed which will allow on-farm research even for own use by large abled large estates, and use of indigenous technical knowledge in coffee farming especially among smallholder farmers and reduce the cost of research.

vii. The Authority in consultation with industry stakeholders will have the responsibility of developing a training curriculum, conducting examinations and issuance of certificates for coffee liquorers.

viii. The different licences and fees prescribed in the regulations will generate additional revenue for the Authority.

3.2 Effects on the Private Sector

The proposed Regulations will affect the private sector in the following ways:-

i. The clear identification, definition and distinction of industry actors and their roles for the different coffee value chain actors will eliminate conflicting roles by some coffee industry actors which often results in colluding underhand dealings in the sector to the detriment of other sector actors, especially farmers.

ii. The licensing of independent coffee auction organizers will ensure fair trading in the coffee auctions devoid of any form of collusions or effects of vested interest by non-independent auction organizers.

iii. The licensing of miller-marketers will allow such millers to engage directly in coffee marketing without having to engage alternative marketing agents at a cost that erodes farmers' incomes.

iv. The incorporation of the national body for the time being responsible for standards in the development, oversight and enforcement of quality standards in the coffee will facilitate and support the sector private sector meet internationally acceptable standards and branding for entry into alternative global coffee markets.

v. Regular inspections and surveillance of industry private sector players by the Authority will ease the process of issuance or renewal of licenses due to the continuous monitoring of compliance.

vi. Licensing of grower miller means that a grower who mills own parchment or mbuni will market their produce themselves, which encourages more growers to invest in milling facilities, and thus be responsible for the quality of their produce.

vii. Governance in Cooperatives will be strengthened through the introduction of two five-year term limits for directors of coffee Co-operatives, the requirement of not more than two-thirds of the directors being of one gender, and directors to meet the requirements of Chapter Six of the Constitution, thus improved efficiency and farmers' returns.

viii. Providing for the coffee factory by resolution of its members in an annual general meeting to register as Societies under the Co-operative Societies Act will allow them to register as Societies and manage their own affairs and avoid inefficiencies within large Cooperatives which erode profits of well-performing factories.

ix. Proposed licensing protocol in the industry will prevent a holder of a coffee buyer's licence or any other entity associated with such holder to be licensed as a miller-marketer, roaster or warehouseman to prevent the development of oligopolistic or even monopolistic coffee agencies that would be a threat to the survival of smallholder coffee organizations who are the backbone of the Kenyan coffee sector.

x. Appointment of a licensed miller-marketer for the milling parchment and mbuni coffee and the marketing of clean coffee by growers of a coffee factory by the management committee and ratification by growers through a resolution of members in an annual general meeting will ensure competitiveness. This is expected to promote transparency, members' participation and efficiency in the delivery of services and with disclosures of all charges and fees.

xi. The capping of marketing fees, milling losses allowable and cost of coffee milling and related activities (handling, sorting, grading, packaging, warehousing charges) will protect growers from excessive charges for services and ensure efficiency, thus ensuring better returns for growers.

xii. Prohibition of coffee miller-marketers to offer farmers financial support will protect growers from borrowings by society management against the members' assets or coffee deliveries and often leaves societies heavily indebted.

xiii. Prohibiting miller-marketers or their agents from participating in the buying of coffee and also prohibiting parallel directorships and cross-ownership of shares in miller-marketers and coffee buying companies will ensure fair trade practices in coffee marketing and eliminate possible acts of colluding by players with multiple interests.

xiv. Direct coffee sales will be subject to price competition at the Nairobi Coffee Auctions whereby the direct sales price shall serve as a reserve price. This will ensure that coffee farmers will not be victims of depressed prices even from prospective direct sales.

xv. All payments to growers for coffee sold and for services rendered for such coffee whether, by miller-marketers, warehousemen, auction organizers, coffee societies and factories will be paid into their individual accounts from the direct settlement system. This will protect payments due to growers and other service providers from possible risks of diversion, misappropriation, unallowable appropriations and even delayed disbursement of payments.

xvi. Payments to factories or societies from the direct settlement system for operations and maintenance to five per centum of the value of coffee sold net of the milling, warehousing and marketing costs, protecting farmers from excessive charges.

xvii. Nairobi Coffee Auction service agreements with commercial banks which qualify and are appointed to offer the services of Direct Settlement System services for the coffee subsector which will further secure growers' dues.

xviii. Licensing of independent coffee liquorers and cupping centres will ensure fair practices in coffee liquoring and grading.

xix. The interest rate on borrowing by a coffee factory/Cooperative society against growers' assets such as land, machinery, equipment held in trust by the growers' coffee factories Co-operative societies is capped at five percent per annum; factories or societies shall only contract loans or advances with the support of a resolution passed by a majority of the growers; a breach of these requirements constitute an offence and any loans borrowed in breach of this provision shall be statutorily converted. This will protect members' interests in the society/factory.

xx. All marketing agent licenses existing as of 30th June 2021 to remain valid until a Direct Settlement System is established for the processing of coffee sales proceeds and other ancillary services. This will ensure continuity in business during the transition phase until the envisaged changes are fully in place.

xxi. The different licences and fees prescribed in the Amendment Regulations will marginally increase the cost of doing business in the coffee sector.

3.3 Effects on Fundamental Rights and Freedoms

The proposed Regulations shall have a positive impact on fundamental rights and freedoms in the following ways:-

i. Consumer Protection

The draft Amendment Regulations seek to promote consumer protection by ensuring quality guarantees of the coffee in the consumption market. Specifically, clause 6 amends the functions of the Agriculture and Food Authority by imposing additional powers to develop, oversee and enforce as the case may be the national regulations, coffee industry standards and industry code of practice and other quality standards in the coffee industry in collaboration with Kenya Bureau of Standards. The Amendment Regulations also empower the Authority to undertake inspections and surveillance of industry players. These powers are aimed at ensuring that the production, importation and sale of coffee meet the quality standards and the end product are of merchantable quality. Additionally, clause 10 provides for the clearance and registration of miller-marketer by county governments before issuance of licenses for milling and marketing of coffee to applicants. Compliance with the licensing requirements will ensure that the set standards are observed as measures of consumer protection. The provisions of the Amendment Regulations, therefore, reinforce consumer protection.

These provisions of the Amendment Regulations are in line with the provisions of article 46 of the Constitution. The Constitution under Article 46(1) guarantees consumers the right to goods and services of reasonable quality. The proposed Amendment Regulations will protect consumers from the consumption of poor-quality coffee.

ii. Access to information

Article 35 of the Constitution guarantees the right of access to information held by another person and is required for the exercise or protection of any right or fundamental freedom. This is reflected in the proposed amendment regulations under clause 7 which proposes to amend regulation 7 of the General Regulations and substitutes the registration requirement. The Amendment Regulations mandate the Authority to undertake registration of all coffee warehousemen, warehouses, coffee mill-marketer, grower marketers, grower millers, auction organizers, coffee buyers, roasters, importers and certification companies, maintain up to date register on them and share the register with respective county governments. The information management systems maintained by the county government including the database on registers will be accessible to the public as necessary for the subsector.

iii. **Affirmative action**

The Constitution provides for equality and non-discrimination. Specifically, Article 27 (8) requires the implementation of the constitutional principle on equality and non-discrimination such that not more than two-thirds of the members of elective or appointive bodies shall be of the same gender. The Amendment Regulations seek to enforce this provision under clause 7 by incorporating provisions mandating the Cooperative Societies to ensure that not more than two-thirds of the members are of one gender while appointing its board of directors.

iv. **Economic and social rights**

Article 43 of the Constitution of Kenya, 2010 provides for economic and social rights. It affirms the right of individuals and communities to an adequate standard of life including the right to be free from hunger and have adequate food of acceptable quality. The proposed Amendment Regulations, if enacted into law, shall create employment opportunities in coffee plantations and production which in turn shall ensure the realization of economic rights.

3.0 Statement on Regulatory & Non-Regulatory Options

3.1 Option 1: Maintaining the *Status Quo*

Before considering new interventions, it is important to consider whether the problem could be resolved by making changes to practices within the existing regulatory framework, thus maintaining the *status quo*. Examples of this are: -

i. Making use of existing laws, regulations and/or guidelines;
ii. Simplifying or clarifying existing regulation;
iii. Improving enforcement of existing regulation; or
iv. Making legal remedies more accessible or cheaper.

3.2 Option 2: Passing the Regulations

The Government can achieve its policy objectives by using taxpayer money or through a range of non-spending interventions, including regulation. The purpose of these is to provide for the regulation, promotion and development of the coffee industry in Kenya for the benefit of the Coffee growers and other stakeholders in the Coffee industry. These Regulations aim to set rules to protect and benefit people, businesses and the environment, stabilizing markets and addressing production, processing and market failures to support the development of the industry. Regulations could also create costs for businesses and the public sectors. It could if overused, poorly designed or implemented, stifle competitiveness and growth.

Adoption and operationalization of the proposed regulations will: -

i. Strengthen regulation and surveillance in the coffee industry by having clear identification, definition and distinction of all industry actors and their roles for the different coffee value chain actors.

ii. Streamline and coordination of players within the coffee industry to remove underhand dealings from multiple conflicts of interest by dominant industry players that negatively impact the coffee industry development or on certain actors in the chain including in the production, processing, marketing and export of coffee.

iii. Strengthen governance, efficiency and transparency in coffee cooperatives to the benefit of the societies' membership and the coffee industry in general.

iv. Promote fair trade practices through the introduction of independent coffee auction organizers, coffee liquorers and cupping centres.

v. Capping limits of marketing fees, milling losses allowable, operation and maintenance costs and cost of coffee milling and related activities; and Interest rate on borrowing will protect growers from excessive or exorbitant fees by service providers.

vi. Direct coffee sales will be subjected to price competition at the Nairobi Coffee Auctions whereby the direct sales price shall serve as a reserve price. This will ensure that coffee farmers will not be victims of depressed prices even from purposively direct sales.

vii. All payments to growers for coffee sold and for services rendered will be paid directly into their individual accounts from the direct settlement system. This will protect such payments from possible risks of diversion, misappropriation, and misdirected appropriations or even delayed disbursement.

viii. Farmers' interests and assets including coffee deliveries will be secured by the prohibition of financial support from coffee miller-marketers to societies and the capping of interest on borrowings.

ix. Increase growers' participation in decision making including the appointment of licensed miller-marketer for the milling of their parchment and buni coffee and approval of borrowings.

x. Eligible coffee factories by resolution of their members in an annual general meeting can register as societies under the Co-operative Societies Act to manage their own affairs and avoid inefficiencies within large cooperatives which erode profits of well-performing factories.

xi. Develop and maintain a realistic database of the coffee industry inclusive of registers on the various coffee value chain actors, coffee production and processing, and coffee stocks movement in Kenya for better sector control and planning.

The Regulations are thus important for the development of the coffee sector and industry for the benefit of all sector/industry stakeholders, especially the coffee farmers and to contribute to the overall development of the agricultural sector in the country in general.

3.3 Option 3: Other Practical Options

Alternatives to regulation include information and education, market-based structures, self-regulation and co-regulation. In addition, existing policies can be improved, without further regulation, using techniques such as behavioral insight or changing enforcement practices to improve compliance. Such approaches may be better or worse for business and the economy than an equivalent regulatory measure.

3.3.1 Alternatives to Regulations

Alternatives to regulation include:

i. **No new Intervention/Do Nothing:**

This may include making use of existing laws (or none) and regulations; simplifying or clarifying existing laws and regulations; improving enforcement of existing laws and regulations, or making legal remedies more accessible or cheaper and as discussed in the section above status quo in the sector is likely to remain since it has been noted that though the Crops (Coffee) (General) Regulations, 2019 were gazetted and have been implemented to provide for the regulation, promotion and development of the coffee industry in Kenya, gaps identified in the implementation of these regulations have necessitated their amendment to be able to realize fully the intended purposes of the said regulations.

ii. **Information and Education**

Information and education can be used to empower coffee industry actors including farmers and other industry actors and stakeholders to make their own decisions, improving choice for the mutual benefit of all. However, there are potential risks associated with this. The information and education can take time to make an impact. Access to information on the coffee industry is a big challenge as documentation in the industry has remained limited to be useful and still even the ability to use the available information can vary within the sector and the community and so may not reach all equally. It may also not be straightforward to assess how people will react or change their behavior in response to the information provided. It will also increase costs for the government and businesses that will be providing the information and education required.

iii. **Incentive/Market-Based Structures**

The government can use economic instruments, such as taxes, subsidies, quotas and permits, vouchers etc. as initiatives to realize the desired objectives. These initiatives, however, are only practically possible in well-developed and efficiently functioning sectors which have well-defined structures unlike in the coffee industry whose structures are yet to be properly defined in the country. Further, often these sorts of systems need their own regulation to establish the framework and may have additional costs to the government and are unlikely to be effective in the coffee industry.

3.3.2 Alternatives Models of Regulation

Alternative models of regulation include;

i. **Self-Regulation**

Self-regulation entails industry players developing a framework to self-regulate a sector. This could be done through the use of codes of conduct or practice, customer charters, standards or accreditation. In many cases, rules and codes of conduct or practice will be formulated by the industry representatives or organizations under their own initiative. In absence of universal well-developed and all-inclusive industry organizations as in the coffee industry, self-regulation currently cannot be effectively possible.

ii. **Co-Regulation**

Co-regulation is an intermediate step between state-imposed and self-regulation that involves some degree of explicit government involvement where the industry may work with the government to develop a code of practice whose enforcement would be by the industry or a professional organization and accredited by the government. In absence of universal well-developed and all-inclusive industry organizations as in the coffee industry, effective co-regulation is not possible currently in the country.

4.0 Costs-Benefit Analysis (CBA)

4.1 Economic, Environmental and Social Impacts

a) Economic Impacts of the Regulations:

The economic benefits of the proposed regulations include;

Economic Benefits

i. Increased coffee production: The increased efficiency in coffee processing and marketing resulting from the different interventions proposed in these regulations including improved governance, capped limits for the processing fee, marketing fees, milling losses allowable, maintenance costs and cost of coffee milling and Interest rate on borrowing will increase returns to growers which will motivate them to improve the management of their coffee, increase acreage and attract other farmers into the sector which will contribute to an increase in agriculture and national GDPs.

ii. Improved Kenya coffee prices: Improved surveillance, monitoring and compliance to the regulations including quality standards will make Kenya's coffee more preferred in the market and will attract premium prices which will cascade to the growers and other service providers along the value chain

iii. Employment creation: The well-developed and regulated coffee sector in the country will support the maintenance of existing jobs in the industry as well as create new employment opportunities both on-farm and off-farm. On-farm employment opportunities will be created by a need for increased labour for the increasing coffee production as a result of new/increased investments, enhanced access to support services and an enabling environment, (re-)investment in coffee farms and engaging the rural population in production including crop establishment and management, harvesting and sorting. Off-farm employment opportunities will arise from coffee milling and processing and marketing. The industry auxiliary services including financial and insurance services will also create more employment opportunities in these fields.

iv. Increased farm incomes: A streamlined marketing structure with no exploitation of farmers by cartels, increased production and supply of coffee to the market, increased efficiency across processing and marketing processes and increased access to niche markets will increase incomes for farm families and estates engaged in coffee production.

v. Increased trading and value addition in coffee, further contributing to increased agriculture and national GDPs including the development and marketing in branded and specialty Kenya coffees.

vi. Increased foreign exchange earnings from increased regional and international trading and export of coffee

vii. Increased savings and investment by the different actors within the coffee industry by farm families; warehouse operators, traders, processors etc.

viii. The numerous fees prescribed in the regulations will increase revenue collection for the Authority.

Economic Costs of the Proposed Regulations

i. Effective implementation of the Regulations will require increased investment for compliance and licenses which will increase the cost of doing business. This cost is likely to be transferred to the consumer thus increasing the coffee prices.

ii. Implementation of these regulations will require concerted efforts and investments to support a rigorous and effective regulatory system from the Authority, county governments and other complimenting agencies.

iii. The national and county governments have to invest in coffee sector stakeholders' education to introduce the regulations to them for their total buy-in before the full and effective implementation.

iv. Given a large number of actors in the coffee-growing zones and the industry and their spread across the country, the investment to monitor for compliance and/or enforcement has to be significant to realize and sustain the benefits of the regulations.

v. The Regulations will also introduce additional transactional costs and bureaucracy due to the many processes envisaged in the Regulations resulting in increased cost of doing business and time delays for businesses.

b) The Social Impact of the Regulations

The social benefits of the proposed Regulations are:

i. Source of livelihoods: coffee is of extreme importance to smallholder farmers in the coffee-growing zones and remains the primary and the most important source of livelihood in these zones.

ii. Improved education levels and reduced illiteracy, health and social amenities access in the societies due to improved incomes and improved income distribution, thus improved social wellbeing of the rural communities.

iii. The reduced tide of rural-urban migration in search of employment opportunities due to increased employment opportunities created by the coffee sector in the rural areas.

iv. Improved income distribution among the farm families and the communities in general and thus reduced inequalities due to production and increased participation of women and youth in the coffee sector.

Social Costs of the Proposed Regulation

The social costs of the proposed Regulations are: -

i. Increased land area for coffee production may reduce the land available for food production, resulting in reduced food production and thus threatening food security at household, regional and national levels.

ii. Increased coffee production and collection may increase child labour engagement in the revamped and the financially attractive coffee industry.

c) The Environmental Impacts of the Regulations

The environmental benefits of the proposed Regulations are:

i. Reduced soil degradation due to improved and sustained plant cover from coffee and shade trees.

ii. Improved soil structure and fertility from the recycling of coffee pulp as manure.

The possible negative impact of the Regulations may include: -

i. Increased contamination of water bodies from effluents from increased pulping stations.

ii. Increased soil degradation due to increased soil operations in the establishment and management of coffee fields and application of basal fertilizers.

iii. Increased environmental degradation and loss of important pollinators from the increased use of agrochemicals to support increased and quality coffee production.

iv. Poor disposal of coffee pulp from the coffee millers.

However, with proper and effective implementation of these regulations, these negative environmental impacts can be significantly mitigated and impacts reduced.

4.2 Administration and Compliance Cost

RIA noted that resources would be required for operationalization of the regulations which will include human resources and operation costs for inspections and enforcement as well as for awareness creation of the regulations to the different coffee producers and coffee industry players. It is assumed that additional resources will go to the implementation of the wider national agricultural and trade policies which support coffee production, coffee processing research and development, provision advisory services to commercial coffee farmers for strengthening knowledge transfer and technology distribution among the farmers, capacity building of industry actors, and in the implementation of the regulations, individual national coffee industry, agricultural and trade strategies, the Government's Big 4 agenda, Vision 2030, County CIDPs and other relevant sector national policies and strategies.

4.3 Assessment of Return on Investment (Benefit)

Passing and operationalization of the proposed Amendment Regulations will be critical in facilitating the development of the coffee sector, by further streamlining the structure of Kenya's coffee industry to allow coordinated regulation of the coffee value chain, create a level playfield for all value chain players and promote fair trade practices to support the production, processing and marketing of coffee which will contribute to the realization of Kenya's manufacturing pillar's aspirations as envisioned in the Big 4 agenda, ASGTS and the agricultural sector and national objectives in the Vision 2030 development blueprint.

The proposed Amendment Regulations will in particular reform the processing of coffee in Kenya which has remained a weak link in the value chain due to the high losses experienced both in quality and quantities during processing and the high charges that growers have to meet for processing services and processors' dishonesty. Coffee millers have not been bearing any responsibility to their clients on their produce and growers have had no role in the processing of their coffee. The proposed regulations will change this and will give the growers a voice on the appointment and over the sighting of millers and the contracts signed with millers will cap the allowable milling losses to 19% of parchment coffee milled and the cost of coffee milling and related activities (handling, sorting, grading, packaging, warehousing charges) not to exceed Kshs. 4,000.00/ton of coffee delivered. This will protect growers from excessive charges for services rendered by miller-marketers and ensure processing efficiency thus enabling better returns for growers.

Equally, the Amendment Regulations cap marketing fees at up to one per centum of the value of the coffee sold while also granting an independent auction organizer the role of conducting business at the coffee auction from the Exchange as the case has been. The introduction of an independent auction organizer, independent coffee liquorers and licensing of cupping centres will ensure fair trade practices in quality assessment processes and the coffee auctions.

The regulations will also ensure separation of roles within the coffee industry and prevent the possibility of coffee buyers developing into oligopolistic or even monopolistic coffee agencies that would vertically integrate multiple roles in the sector from buying, processing and marketing coffee, and with time dominate and destabilize the sector which would be a threat to the survival of smallholder coffee organizations who are the backbone of the Kenyan coffee sector.

The Amendment Regulations also propose a raft of interventions that will strengthen governance in the coffee Cooperative societies including limiting directors' term of service to two terms of 5 years each, two-third gender representation, the integrity of directors and increased participation of members in the making of key decisions such as the appointment of service providers and borrowing of finances. This is expected to enhance the performance of these Cooperatives and reduce losses, reduce colluding in underhand deals of the society management decision making and unapproved borrowing which has driven many coffee cooperatives into unserviceable debts.

In broad terms, the RIA notes that the following broad benefits and returns on investment will be achieved: -

i. The Regulations will support reform of the coffee industry into a well-structured, streamlined, and regulated industry with clearly defined roles and mandates for the different industry actors and will specifically transform and improve coffee processing and marketing for the benefit of all coffee sectors stakeholders and the country.

ii. Promote coffee quality standard and further value addition including speciality coffee, the development and application of distinguishing marks and growers coding which will promote sector documentation, quality assurance and also will improve the competitiveness of Kenya's coffee in the regional and global coffee and niche coffee markets.

iii. Support the development of coffee agro-enterprises including among smallholder farmers through the licensing of grower-millers who have generally faced challenges to establish themselves in an industry dominated by a few and which will allow such growers to be responsible for the quality of their produce as well as avoid high processing costs charged by service providers.

iv. Improved access to comprehensive reliable data and information continuously maintained by the Authority and the different actors in the coffee sector will provide a planning and decision-making basis both for the Government and private sector businesses in the coffee value chain and industry in general.

v. Sustain and create additional employment opportunities both on-farm and off-farm across the coffee sector and supportive industry auxiliary services, trading and marketing, processes within the sector.

vi. Strengthen governance, efficiency and transparency in coffee cooperatives to the benefit of the societies' membership and the coffee industry in general and for the sustainability of the cooperatives.

vii. Increased incomes for coffee producers resulting from increased coffee production, reduced production costs, improved coffee quality and thus better coffee prices, further coffee value addition and fair trade practices, and thus improved livelihoods and social well-being of the rural communities.

viii. Increased national coffee production, quality and trading will translate into increased foreign exchange earnings, improved balance of trade with specific trading partners, and an increased contribution to the agricultural and national gross domestic product (GDP).

ix. Regulate coffee imports and exports thus controlling illegal trade actions that can negatively impact the Local coffee and export markets by distorting demand and prices.

4.4 Quantification of the Benefit

The proposed amendments in the regulations mainly introduce various structural changes in the processing and marketing of coffee and seek to define, distinguish and separate the roles of the different actors in coffee processing and marketing in Kenya's coffee industry to streamline this industry. Kenya's coffee industry is characterized by wide variances across all parameters that can be used to quantify the benefits or the cost of the proposed changes. For example, the average yield is estimated at 302kg/ha for smallholder farms and 556kg/ha for estate farms; while Cooperative societies are required by law to pay farmers at least 80% of the total upon delivery of their cherries, cherry repayment rates differ from region to region and from society to society, ranging from 84.6% to as low as 10.2%; Further, according to KALRO, the highest production cost is Kshs 52.30/kg while the lowest production cost is Kshs 10/kg depending on different varieties and management style.

Equally, the costs for processing and marketing vary widely as these two nodes of the value chain have been dominated by cartels who are out to maximize profits above everything else and unfortunately, growers and especially smallholder farmers have no control over these two nodes. Smallholder farmers often are also victims of underhand deals between these cartels and Cooperative society management who cut deals on the cost of services in these two areas for personal gains which makes the actual cost of processing and marketing vary very widely and difficult to determine.

These wide variations make it difficult to establish a factual representative cost-benefit analysis of the proposed amendments due to the absence of universally accepted standard base figures. The proposed Amendment Regulations, however, introduce specific expected results for selected key different parameters in various coffee processing and marketing processes. These include: -

i. Licensed miller-marketers shall charge up to one per centum of the value of the coffee sold as marketing fees.

ii. The milling losses allowable under this clause may be capped at nineteen percent of parchment coffee milled.

iii. The cost of coffee milling and related activities (handling, sorting, grading, packaging, warehousing charges) shall not exceed Ksh4,000.00/ton of coffee delivered.

iv. Payments to factories or societies from the direct settlement system for operations and maintenance maybe five per centum of the value of coffee sold net of the milling, warehousing and marketing costs.

v. The interest rate on borrowing by a coffee factory against growers' assets held in trust by the growers' coffee factories and coffee Cooperative societies such as assets, land, machinery, equipment, shall be capped at five percent per annum.

As shown in the table below, the average cost of milling one tonne of parchment in the selected coffee millers is Kshs. 5765.00. With the regulations capping the milling tariffs at Kshs. 4000.00 a saving of Kshs. 1765.00 per tonne of parchment will be realized which represents a saving of about 31% on average on milling tariffs and which goes back to the growers, thereby increasing their returns. The savings will be greater for growers whose millers have been charging higher tariffs than the average of Kshs. 5765.00 per tonne of parchment-like Kipkelion, Great Rift Valley Mill and NGK (Kshs. 7410.00 per tonne); Gusii and Kahawa Bora (Kshs. 6270.00) translating to 46% and 36% savings on milling tariffs which would significantly change the returns growers receive.

Table 1: Comparative analysis of milling tariffs for selected millers in Kenya

No	Miller	Milling tariffs ($)per tonne of parchment	Milling tariffs (Kshs) per tonne of parchment	Proposed milling limit per tonne (Kshs)	Milling tariffs savings/ tonne (Kshs)	Percent milling tariffs savings (%)
1.	CKCM	45	5130	4000	1130	22.0
2.	NKG	65	7410	4000	3410	46.0
3.	Gusii	55	6270	4000	2270	36.2
4.	Kipkelion	65	7410	4000	3410	46.0
5.	NKPCU affiliates	40	4560	4000	560	12.3
6.	Sasini	55	6270	4000	2270	36.2
7.	Thika Coffee Mills	45	5130	4000	1130	22.0
8.	CMS Eldoret	45	5130	4000	1130	22.0
9.	Great Rift Valley Mill	65	7410	4000	3410	46.0
10.	Kahawa Bora	55	6270	4000	2270	36.2
11.	Othaya FCS mill (Ksh 6 per kg)	53	6042	4000	2042	33.8
12.	Tharaka Nithi	40	4560	4000	560	12.3
13.	Meru County Coffee Mill	40	4560	4000	560	12.3
14.	Lower Eastern Coffee Mill	40	4560	4000	560	12.3
	Average	**51**	**5765**	**4000**	**1765**	**30.6**
	Exchange rate $ 1 = Kshs 114.00					

(Source: AFA)

Similarly, the capping on allowable interest rates on borrowing by coffee Cooperative societies at 5% per annum will generate additional savings which will further increase returns to smallholder coffee growers who are members of these societies. The current interest rate the cooperatives have to pay for borrowing from commercial sources is between 12 – 24%. Capping the interest rates on cooperatives borrowing at 5% as proposed in these regulations will translate to savings on interest payable on borrowing by between 7 – 19% as shown in the table below, a saving that will further enhance returns to growers.

Table 2: Interest rate savings on borrowings with capped interest rates.

Credit source	Current rates (%)		Proposed Limit (%)	Savings on Interest rates (%)	
	Minimum	Maximum		Minimum	Maximum
Commercial	12	24	5	7	19

(Source: AFA)

Additional savings that will further increase returns to farmers will be realized from other proposals in these regulations including the introduction of a maximum allowable loss in the processing of 19%, limiting marketing fees to a maximum of 1% and limiting operations and maintenance costs payable to factories to 5% and with all savings accrued expected to return to the growers, the profitability of the coffee enterprise is set to significantly improve and make the crop once again attractive to farmers.

From the above discussion, it can be concluded that the implementation of the amendments of the proposed regulations will no doubt transform the coffee industry in Kenya with clear benefits that outweigh the resultant costs of the implementation of these Amendment Regulations to the benefit of all coffee stakeholders and particularly the coffee growers. Importantly, the regulations are supporting the efforts to revitalize the coffee industry to its former status as a key crop contributing to the livelihoods of millions of Kenyans and leading in the foreign exchange earning industry in the country.

5.0 Reasons why other Regulatory Options are not appropriate

5.1 Option 1: Maintaining the *Status Quo*

Maintaining the status-quo will mean the country does not reform the regulatory framework and structure to support the promotion, development, processing, marketing, and regulation of the coffee industry for the benefit of growers and other stakeholders in the industry which will deny coffee farmers, millers, marketers and other interested parties the prospects to benefit from the many opportunities in an organized and streamlined coffee industry while also curtailing realization of the country's agricultural and national development objectives, including the following:

i. Organized cartels will continue to dominate coffee buying, processing and marketing in the country to the detriment of all other actors in the sector including growers and especially smallholder farmers' new investors by distorting market demand, prices and quality specifications. This will discourage growers and may frustrate some farmers to even uproot the crop and discourage new entrants into the sector.

ii. The cost for key services in the processing and marketing of coffee will remain exaggerated which will erode growers' returns, making the coffee enterprise appear unprofitable compared to other cash crops and other farm enterprises which may drive farmers from the crop.

iii. Coffee Cooperative societies which handle most smallholders' produce will continue to operate dismally with poor governance, high milling losses, unwarranted high-cost borrowings and indebtedness, corruption deals and discouraging participation of women and youth in the industry which may also frustrate growers to abandon the crop.

iv. The maintenance of the existing jobs in the industry and the anticipated employment opportunities to be created by a revamped coffee sector will not be realized.

v. Maintenance of coffee production, processing and marketing data in the country will not be mandatory and future coffee industry planning and decision making by both public and private sector industry actors will not be based on any reliable real-time data and information.

vi. Eligible growers will be denied the opportunity to mill their own coffee by being licensed as grower-millers and thereby take responsibility for the quality and losses of their produce.

vii. Milling losses will remain high, increasing losses, especially for farmers resulting in declining returns and thus livelihoods for farmers and other actors' traders who rely on coffee for income.

viii. The quality of Kenyan coffee particularly from smallholder farmers will continue to remain poor and thus attracting low prices or even market rejection.

The situation is undesirable, and the RIA recommends that the proposed Amendment Regulations be implemented to realize the optimal development, promotion, and regulation of the coffee industry for the benefit of the coffee industry actors and other stakeholders across the wider coffee value chain in the country for this industry to effectively contribute to the realization of the objectives of the ASGTS, the Government's Big 4 Agenda and Vision 2030 and the respective Counties' CIDPs and the different county policies and strategies on agricultural development.

5.2. Other Practical Options

Alternatives to regulation include:

i. **No New Intervention/Do Nothing**

This may include making use of the existing regulations and laws; simplifying or clarifying existing regulations and laws; improving enforcement of existing regulations; or making legal remedies more accessible or cheaper. However, with this approach, the status quo is likely to remain as the Crops (Coffee) (General) Regulations, 2019 have been implemented from the year 2019 and gaps identified have necessitated these proposed amendments. In absence of any new intervention, the coffee sector would therefore remain as it currently is and this will be to the detriment of all the sector stakeholders and the country in general.

ii. **Information and Education**

Information and education can be used to empower stakeholders to make their own decisions, improving choices for the mutual benefit of all. However, information and education can take time to make an impact and still may not be acceptable to all. This approach may increase costs for the government and businesses that will be providing the information and education required. The desired objectives are unlikely to be realized within a reasonable time for the common good of all.

iii. **Incentive/Market-Based Structures**

The government can use economic instruments, such as taxes, subsidies, initiatives to realize the desired objectives. These initiatives, however, are only practically possible in well-developed and efficiently functioning sectors which have well-defined structures and often these sorts of systems need their own regulation to establish the framework and may have additional costs to the government and are unlikely to be effective in the coffee sector in Kenya as its structures are yet to be well developed.

5.3 Alternatives Models of Regulation include:

i. **Self-Regulation**

The coffee sector in the country does not have a universal all-inclusive industry representation that could formulate and implement codes of conduct or practice, customer charters, standards or accreditation system acceptable to all sector actors for self-regulation and the necessary mechanisms to monitor the effective implementation of such self-regulation. This makes effective self-regulation in the coffee sector as it is currently not possible.

ii. Co-Regulation

Co-regulation is an intermediate step between state-imposed and self-regulation that involves some degree of explicit government involvement where the industry may work with the government to develop a code of practice whose enforcement would be by the industry or a professional organization accredited by the government. The coffee sector in Kenya currently has no universally accepted and all-inclusive industry representative organization(s) that can mobilize and organize the actors towards this and thus co-regulation is practically not possible currently.

6.0 Conclusions

The proposed Amendment Regulations if approved and effectively implemented will strengthen formal controls and regulations in the coffee industry and streamline the industry structures and environment including roles of all the different sector actors, monitoring and surveillance, and compliance enforcement structures and enhance efficiency while regulating costs of services to support the revitalizing and development of the coffee industry for the benefit of coffee growers and all other stakeholders.

7.0 Recommendations

The RIA thus recommends the passing and operationalization of the proposed Amendment Regulations.

Name: ......
Signature: .... Date: ....
Official Stamp:

SECOND SCHEDULE--FEES

NO.	CATEGORY	NEW APPLICATIONS (Kshs).	RENEWAL FEES (Kshs).
1.	Commercial Transporter	5,000-<500 kilograms 7,500-500-1000 kilograms 10,000->1000kilograms	5,000-<500 kilograms 7,500-500-1000 kilograms 10,000->1000kilograms
2.	Exporter licence	20,000	10,000
3.	Importers licence	50,000	30,000
4.	Export permit	4000	-
5.	Import permit	6000	-
6.	Export Levy	30 per Kilogram	-
7.	Import Levy	60 per Kilogram	-

Made on the 7th June, 2022.

PETER MUNYA,
Cabinet Secretary for Agriculture,
Livestock, Fisheries and Co-operatives.

LEGAL NOTICE NO. 102

THE CROPS ACT

(No. 16 of 2013)

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

THE CROPS (COFFEE) (GENERAL) (AMENDMENT) REGULATIONS, 2022

1. These Regulations may be cited as the Crops (Coffee) (General) (Amendment) Regulations, 2022. Citation.

2. The Crops (Coffee) (General) Regulations, 2019, herein referred to as the principal Regulations are amended in regulation 2— L.N. 102/2019.

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

"auction" means a physical place or electronic system where potential buyers competitively bid for coffee;

(b) by deleting the definition of the term "agent";

(c) by deleting the definition of the term "broker";

(d) by deleting the definition of the term "exchange";

(e) by deleting the word "exchange" and substituting therefor the word "auction" in the definition of the term "buyer";

(f) by inserting the words "operating coffee house" immediately after the word "roasting" in the definition of the term "coffee business";

(g) by deleting the word "exchange" wherever it appears and substituting therefor the word "auction" in the definition of the term "sweepings";

(h) by deleting the word "exchange" and substituting therefor the word "auction" in the definition of the term "trading floor";

(i) by deleting the definition of the term "direct settlement" and substituting therefor the following new definition—

"direct settlement system" means a receipts and disbursements facility provided by a commercial bank regulated as such under the Central Bank Act for the receipt from buyers of all proceeds from the purchase of coffee and from which all claims on the coffee so purchased, including payments to growers, grower millers, grower marketers, miller-marketers, warehousemen, warehouses, Nairobi Coffee Auction and financial obligations will be directly settled;

(j) by deleting the definition of the term "sales catalogue" and substituting therefor the following new definition—

"sales catalogue" means a standard document prepared by a miller-marketer or a grower marketer in consultation with the auction organizer for sale of clean coffee at the auction;

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

"auction organizer" means a person, company or firm established for the purpose of organizing coffee auctions in Kenya and is licensed by the Authority;

"cherry" means "the ripe fruit of the coffee tree;

"buni" means dried coffee in the fruit but does not include hulled dried fruit;

"compliance certificate" mean a certificate issued by the Authority to ascertain compliance with quality standards;

"grower marketer" means a grower licensed by the Authority to market his or its own clean coffee;

"grower miller" means a grower who mills own parchment or buni or its members' coffee and includes cooperative societies, association, estate or any other grower legal entity issued by the respective county government;

"importer" means a person licensed by the Authority to import value added coffee;

"management agent" means any person licensed by the Authority, and appointed through a specific agreement by a grower or a smallholder for the management of such coffee farm or pulping station;

"miller-marketer "means a person whose mill is approved by respective county governments and is licensed by the Authority and appointed by the grower to undertake the milling and marketing of the grower's coffee"; and

"value added coffee" means coffee that is roasted and packaged and includes instant coffee.

3. Regulation 4 of the principal Regulations is amended in sub regulation (2) by—

(a) inserting the words "auction organiser and miller marketer" immediately after the word "liquoreurs" in paragraph (a);

(b) deleting paragraph (d) and substituting therefor the following new paragraph—

(d) develop, oversee and enforce as the case may be, the national regulations, coffee industry standards, industry code of practice and other quality standards in the coffee industry in collaboration with the national body for the time being responsible for standards;

(c) by inserting the following paragraph immediately after paragraph (j)—

(ja) undertake inspection and surveillance of industry players;

(d) deleting paragraph (k).

4. Regulation 5 of the principal Regulations is amended in sub regulation (2) by deleting the word "milling" appearing in paragraph (c) and substituting therefor the words "grower miller".

5. Regulation 7 of the principal Regulations is amended by—

(a) deleting sub regulation (5) and substituting therefor the following new sub regulation—

(5) The Authority shall register all coffee warehousemen, warehouses, coffee miller-marketer, grower marketer, grower miller, auction organizer, coffee buyers,

coffee bags suppliers, roasters, importers, and certification companies, maintain an up-to- date register and share the register with respective county governments.

(b) inserting the following new sub regulations immediately after sub regulation (7)—

(8) The management committeesof a coffee co-operative and grower associations shall serve for a period of five-year term renewal once.

(9) In electing management committee members under this section, a cooperative society or an association shall ensure that not more than two thirds of the members are of one gender.

(10) In electing management committee members under this section, nominees for the board shall meet the requirements of Chapter Six of the Constitution.

(11) Notwithstanding the provisions of any other law, every coffee factory may, by resolution of its members in an Annual General Meeting, apply for registration as a cooperative society under the Co-operative Societies' Act.

Provided single factories seeking registration as cooperative societies shall demonstrate an average coffee production of 500,000 kgs for the immediate preceding three years.

(12) The County Government, in consultation with the Authority, shall issue a distinguishing mark and a grower code.

(13) No estate, association, company or a co- operative society offering coffee for sale or export shall use any distinguishing mark and grower code to market and identify such coffee unless the mark is registered by the county government in consultation with the Authority.

6. Regulation 10 of the principal Regulation is amended —

(a) in sub regulation (1) by deleting paragraph (d);

(b) in sub regulation (2) by—

(i) deleting paragraph (a);

(ii) deleting the word "exchange" and substituting therefor the word "auction" in paragraph (c);

(iii) by inserting the following new paragraphs immediately after paragraph (e)—

(f) grower marketer licence in Form C3.2 set out in the First Schedule authorizing the grower to market own coffee;

(g) auction organizer licence in Form G8 set out in the First Schedule authorizing the conduct of coffee auctions;

(h) miller- marketer licence in Form C4 set out in the First Schedule authorizing the holder to conduct the business of milling and marketing coffee at a fee;

(c) by inserting the following new sub regulation immediately after sub regulation (2)—

(2A) The Authority shall seek the approval of county governments before issuing miller-marketer licenses.

Provided such approval is accorded to miller applicants within thirty calendar days upon application.

7. Regulation 11 of the principal Regulations is amended by—

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

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

(b) deleting sub regulation (4) and substituting therefor the following new sub regulation—

(4) Licences issued by the licensing authority shall run from 1st October to 30th September of every year and application for renewal of a licence shall be made to the Authority not late than the 1st day of the month of September in which the current licence is to expire".

8. Regulation 19 of the principal Regulations is amended—

(a) in sub regulation (6) by deleting the word "exchange" and substituting therefor the word "auction";

(b) in sub regulation (7) by deleting the word "exchange" and substituting therefor the word "auction".

9. Regulation 20 of the principal Regulations is amended by deleting sub regulation (1) and substituting therefor the following new sub regulation—

(1) The Kenya Agricultural and Livestock Organization may validate coffee research findings from other accredited research institutions.

10. Regulation 22 of the principal Regulations is amended—

(a) by deleting sub regulation (1) and substituting the following new sub regulation—

(1) Every coffee society shall, by resolution of its management meeting, competitively procure services of a licensed miller-marketer for the milling parchment and buni coffee and the marketing of clean coffee, or as the case may be.

(b) by inserting the following new sub regulations immediately after sub regulation (1)—

(1A) The management of every society shall, within two months of the end of the crop year, convene a meeting of its members to ratify the miller-marketer procured under sub regulation (1).

(1B) The County Executive Committee Member responsible for cooperatives shall attend or designate a representative to attend the meeting referred to in sub regulation (1A).

(1C) Every registered miller participating in the meeting under sub regulation (1A) shall disclose all charges and fees that may be incurred in the milling process to enable growers make an informed decision.

(1D) Every resolution made under this regulation with regards to the procurement of a miller-marketer, shall within fourteen days of the meeting, be filed with the Authority and copied to the respective County Government.

(c) by deleting sub regulation (2) and substituting the following new sub regulation—

(2) A miller-marketers licensed under these Regulations shall charge up to one per centum (1%) of the value of the coffee sold as marketing commission.

(d) by inserting the following new sub regulation immediately after sub regulation (2)—

(2A) The milling losses allowable under this clause may be capped at nineteen percent of parchment coffee milled.

(2B) The cost of coffee milling and related activities (handling, sorting, grading, packaging, warehousing charges) shall not exceed Ksh 4,000.00 per ton of coffee delivered.

(e) in sub regulation (13) by deleting the word "exchange" and substituting therefor the word "auction organiser".

11. Regulation 23 of the principal Regulations is amended—

(a) in sub regulation (1) by deleting the word "exchange" and substituting therefor the word "auction".

(b) by inserting the following new sub regulations immediately after sub regulation (1) —

(1A) A coffee miller-marketer shall be prohibited from offering a grower financial support.

(1B) The Coffee Auction shall be managed by an auction organiser who shall be licensed by the Authority.

(c) in sub regulation (2) by deleting the word "exchange" and substituting therefor the word "auction".

(d) by deleting sub regulation (3) and substituting therefor the following new sub regulation—

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

(e) by inserting the following new sub regulations immediately after sub regulation (4)—

(5) It shall be an offence for a holder of a miller-marketing licence to participate by himself or by his agent in the buying of coffee.

(6) Parallel directorships and cross ownership of shares in miller-marketers and coffee buying companies is prohibited.

(7) The auction organizer shall establish an auction system for the conduct of auctions for Kenya Coffee and such system may facilitate trading in coffees from the region"

(8) An auction organizer shall fulfil requirements under the Second Schedule under these Regulations.

12. Regulation 24 of the principal Regulations is amended by inserting the following new regulations immediately after sub regulation (2)—

(2A) Direct coffee sales shall be subject to price competition at an auction whereby the Direct sales price shall serve as a reserve price.

(2B) Where the coffee referred to in subsection (2) fetches a higher price at the Coffee auction than the direct sale price offered, the prospective direct sale buyer shall have the right of first refusal to buy the coffee at the auction price.

Provided that if the prospective direct sales buyer refuses to buy the coffee at the Coffee auction price, the coffee shall be sold to highest bidder above the reserve price at the auction.

13. The principal Regulation are amended by deleting regulation 25 and substituting therefor the following new regulation—

Management of the auction.

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

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

(3) The grower or the grower's authorized representatives, shall after the commencement of these Regulations, supply through the auction all the necessary particulars of the grower to the commercial

banks providing the direct settlement system to the grower, for purposes of initiating the settlement system

(4) The grower or the grower's authorized representatives shall through the auction organiser, lodge with the commercial banks providing the direct settlement system, any relevant contracts of service for which payment will be due from the grower, and any other document showing outstanding liabilities payable by the grower, for purposes of settlement through the system.

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

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

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

(8) All payments to growers for coffee sold and for services rendered for such coffee whether by miller-marketers, warehousemen, auction organizers, coffee societies and factories shall be paid into their individual accounts from the direct settlement system.

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

(a) a miller shall deposit clean and graded coffee at a designated licensed warehouse, and where the clean coffee is a bulk, the miller shall provide details of the bulk and the proportions of the respective growers' coffee;

(b) coffee shall meet the Kenya coffee quality standards for commodity trading at the exchange;

(c) the warehouseman shall issue a coffee warrant in the form set out in the Eighth

Schedule or transferable warehouse receipts as the case may be, stating the quantity and quality of the coffee deposited and ensure traceability of the coffee;

(d) for purposes of sale, the grower miller or appointed broker shall input the details of the coffee warrant or warehouse receipt as the case may be, into the central registry of the exchange;

(e) the warehouseman shall guarantee delivery of the coffee described in the coffee warrant or warehouse receipt as the case may be, and in the event of loss or failure of delivery, the warehouseman shall be liable;

(f) the warehouseman or an appointed collateral manager shall confirm that the warehouse receipt or coffee warrant as the case may be, is valid by inspecting and auditing coffee in the warehouse;

(g) upon verification, details in the information registry shall be confirmed into the central order book ready for trading;

(h) the auction organizer in consultation with grower marketers or appointed miller marketers shall set the volumes, lot sizes, dates and times for holding of coffee auctions and determine the order of the sales catalogues for every sale and ensure that reasonable access to the auction is given to all persons licensed to trade;

(i) the grower shall, either directly or in consultation with the miller marketer, set the reserve price for the coffee for every sale taking into account the quality of the coffee, the prevailing auction prices and the international production and market trends;

(j) where a bid for coffee at the auction has not been confirmed, the grower miller or miller marketer shall disclose the reserve price at the trading floor and where the disclosure of the reserve price does not attract any competitive offers, the coffee shall be withdrawn and re-offered for sale at a subsequent auction;

(k) all trading in coffee at the auction shall be concluded at the trading floor of the auction;

(l) once auction is complete, successful bidders shall be invoiced by the grower miller or miller marketer and payments of the proceeds shall be effected to the grower through direct settlement system net of contract and statutory charges;

(m) upon confirmation of payment by the direct settlement system and endorsement by the auction organizer, title to coffee shall be transferred to the buyer or roaster by changing ownership details in the coffee warrant or warehouse receipt, as the case may be, at the central registry;

(n) the new owners will thereafter be at liberty to take delivery of the coffee; and

(o) a coffee warrant or warehouse receipt as the case may be, issued by the warehouseman to a depositor of coffee shall be transferable to a new holder who has purchased the coffee and is entitled to take its delivery upon presentation of the coffee warrant or warehouse receipt endorsed by the auction organizer to the warehouseman.

(10) Payments to factories or societies from the direct settlement system for operations and maintenance shall be five per centum of the value of coffee sold net of the milling, warehousing and marketing costs.

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

(12) The obligations of the auction and the direct settlement system provider shall be as set out in the coffee trading rules and these Regulations.

(13) A commercial bank which express an interest towards establishment of a direct settlement system shall fulfil requirements stipulated under the Second under these Regulations.

(14) The auction organizer shall enter into service agreements with commercial banks which qualify and are appointed to offer the services of direct settlement system services for the coffee subsector.

(15) A commercial bank appointed to offer direct settlement services shall submit returns to the auction organizer.

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

14. Regulation 26 is amended by deleting sub regulation (1) and substituting therefor the following new sub regulation—

(1) A grower marketer or a miller-marketer in consultation with the auction organizer shall prepare a sales catalogue for all the coffee in a licensed warehouse in accordance to the coffee trading rules and these Regulations.

15. Regulation 32 of the principal Regulations is amended—

(a) in sub regulation (2) by deleting the word "may" and substituting therefor the term "shall";

(b) in sub regulation (4) by inserting the word "independent" immediately after the word "offer";

(c) in sub regulation (8) by inserting the word "independent" immediately after the word "cupping";

(d) in sub regulation (9) by deleting the word "exchanges" and substituting therefor the word "auctions".

16. Regulation 33 of the principal Regulation is amended—

(a) in sub regulation (1) by inserting the words "miller-marketer", grower-miller" and " grower-marketer";

(b) in sub regulation (3) by inserting the words "food science and technology" after the word "engineering" appearing in paragraph (a).

17. Regulation 34 of the principal Regulations is amended by deleting the word "miller" and substituting therefor the words "miller-marketer", grower-miller" and " grower-marketer".

18. Regulation 37 of the principal Regulations is amended by deleting the word "miller" and substituting therefor the words "miller-marketer", grower-miller" and " grower-marketer".

19. The principal Regulations are amended by inserting the following new regulations immediately after regulation 38—

Society loans.

38A. The interest rate on borrowing against growers' assets held in trust by the growers' coffee co-operative societies such as assets, land, machinery, equipment, shall be capped at five per cent per annum.

No society shall contract any loans or advances under subsection (a) except with the support of a resolution passed by a majority of the members to that effect.

Any society that violates the provisions subsection (a) commits an offence and any loans borrowed in breach of this provision shall be statutorily converted.

Nothing in this section shall be interpreted as prohibiting coffee farmers from directly borrowing money from regulated financial institutions or any government established funds against their deliveries of cherry, parchment and clean coffee.

The trusteeship responsibility by the management committee of a coffee cooperative society is a Fiduciary duty of position of trust and directors shall have held liable for any directors. Waste and loss arising from negligence and breach of trust.

Coffee buyers Performance Bond

38B. The Authority shall demand a performance bond from a coffee buyer who demonstrates a level of risk in buyer's operations including; sample purchases, payments against coffee purchases and settlement of trade obligations"

Provided the value of such performance bond shall be commensurate to the level of risk demonstrated by a coffee buyer.

20. Regulation 46 of the principal Regulations is amended by inserting the following new paragraph immediately after paragraph (b)—

(c) notwithstanding the provisions of regulation 46 (a) and (b) all marketing agent licenses existing as at 30th June 2021 shall remain valid until a direct settlement system is established for the processing of coffee sales proceeds and other ancillary services;

(d) companies that may require internal reorganization to comply with the provisions of these regulations shall be given a transitional period not exceeding twelve months from the effective date of these regulations;

(e) existing licenses shall, upon the commencement of these Regulations, remain in force until the term of expiry.

21. The First Schedule to principal Regulations is amended—

(a) in Form A2 by deleting the words "Kenya Agriculture, Livestock Research Organization" appearing in paragraph 3 of the terms and conditions and substituting therefor the words "an accredited research organization".

(b) in Form C2 by deleting the heading "The County Government of.. Application for a Commercial Coffee Milling Licence" and substituting therefor the following new title—

THE AGRICULTURE AND FOOD AUTHORITY

APPLICATION FOR MILLER MARKETER LICENCE

(c) in Form C3 by deleting the heading "County Government of.." and substituting therefor the following new heading " The Agriculture and Food Authority".

(d) by deleting Form C4 and substituting therefor the following new Form—

(r.10(2)(a))

AGRICULTURE AND FOOD AUTHORITY

FORM C4 MILLER MARKETER LICENCE

Name

....

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

Valid from...to...

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

Email ....Mobile number...

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

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

L.R.No./Plot..

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

Issued by:

CEC or Authorized Officer

Designation -------------------------------------

Signature....................... *Date ....*

For: County Government

Subject to Terms and Conditions:

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

(e) by deleting Form C6 and substituting therefor the following new Form—

FORM C6

(r.22(10))

MILLER MARKETER MONTHLY RETURNS

Miller's Name..

Miller's Code.............................License No...............................

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

Email ....Mobile number...................................

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

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

L.R.No./Plot..

Coffee year .... Month...

Grower Name	Grower 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
Totals																					

Monthly Sweepings in Kg..

Milling Charges per Tonne *(where applicable)* ....

Transport charges *(where applicable)* ....

Sorting per Tonne *(where applicable)* ....

Other charges (Specify)...

Prepared by:

Name..Designation........................

Signature...................................*Date*.....................................

Stamp

(f) in Form D1 by deleting the word "exchange" and substituting therefor the word "auction".

(g) deleting Form D2 and substituting therefor the following new Form—

FORM D2

(r.10(2)(e))

AGRICULTURE AND FOOD AUTHORITY

COFFEE BUYER' S LICENCE

Name of Buyer..

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

Valid from..to...

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

Email ....Mobile number....................................

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

Ward..Street/road ....

L.R.No./Plot No..

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

Issued by:

Signature.......................... *Date* ....

Director of Coffee Directorate

Agriculture and Food Authority

Subject to Terms and Conditions:

1. A licensed buyer shall submit their trading returns to the Authority on a monthly basis.
2. The licensed buyer shall comply with the Coffee Industry Code of Practice and Standards.
3. The licensed buyer shall allow free access to the premises by the inspectors authorized by the Authority.
4. The Authority may vary, suspend or revoke the coffee buyer's licence issued if the holder fails to abide with the terms and conditions of the licence.

5. The coffee buyer's licence shall not include authority to engage in direct sale.
6. The coffee buyer's licence shall not be transferable.

(h) by deleting Form G7 and substituting therefor the following new Form—

(i) by deleting Form G8 and substituting therefor the following new Form—

(j) by deleting Form H1 and substituting therefor the following new Form—

AGRICULTURE AND FOOD AUTHORITY

APPLICATION FOR REGISTRATION OF DEALERS

FORM H1:

1. Name of Dealer (company)--
2. Principal Office ---

Postal Address...............Postal Code................. Building...................
Street.......................Town/ City..................L.R. No.......................

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

3. Specify type of dealership/Service

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

4. Directors of dealership

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

5. Declare professional skills of persons engaged (attach profiles)

(warehouseman, liquorer, agronomist, engineer, if other professional specify)

6. Brief Company profile
7. Application for Registration by

   Name

   Signature

   Stamp
8. Director, Coffee Directorate

Name --

Signature --

Stamp---

(k) by deleting Form H2 and substituting therefor the following new Form

FIRST SCHEDULE

AGRICULTURE AND FOOD AUTHORITY

FORM H2:

DEALER REGISTRATION CERTIFICATE

Name of Dealer...

Type of Dealership..

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

Street.....................................

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

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

Signed

Director, Coffee Directorate Stamp

THIS IS NOT A LICENCE FOR CONDUCTING BUSINESS

Terms and conditions

1. The registration is not transferable
2. Annual returns shall be submitted to the Authority and the respective county government

3. Continuous updates of the directorship and other registration details shall be submitted

4. The Dealer shall comply with all national and international coffee standards and other regulatory requirements in the crops Act, the coffee regulations, the trading regulations and other statutory requirements such as NEMA.

5. Any other terms introduced by the Authority

(l) by deleting Form L;

(m) by inserting the following new forms in proper sequence—

FORM C3.1

AGRICULTURE AND FOOD AUTHORITY

GROWER MARKETER LICENCE APPLICATION

1. Name of Farmer/Proprietor ....

2. Grower Code (PSL)..............................Validity of Licence ....

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

Email ....Mobile number..........................

4. Location :

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

Ward..............................Village/Road..............L.R.No./Plot............

5. Coffee Acreage ....

VARIETY	Acreage	Number of Mature Trees	Number of Young Trees
Ruiru 11			
Batian			
Traditional Variety			

6. Coffee production for Three Years

YEAR	PARCHMENT (kg)	BUNI(Kg)

7. The Information given is the to true to the best of my knowledge

Name of Applicant ....
ID/NO............................

Date of Application ....

Stamp..

FORM C3.2

AGRICULTURE AND FOOD AUTHORITY

GROWER MARKETER LICENCE

Name ....

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

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

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

Email ....Mobile number.................................

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

Ward...............................Village/Road.....................L.R.No./Plot............

Is/are hereby authorized to undertake the business of a grower marketer at ....

....

Issued By:

Director, Coffee Directorate

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

Stamp:

Subject to Terms and Conditions:

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

FORM G7

AGRICULTURE AND FOOD AUTHORITY

COFFEE DIRECTORATE

r(8)

APPLICATION FOR REGISTRATION/LICENCE RENEWAL OF AUCTION ORGANIZER

1. Name of applicant..
2. Certificate of incorporation.. (Attach copy)
3. Copies of Memorandum and Articles of Association....................(Attach copy)
4. Names and Particulars of Directors and Form CR 12 (attach details)................
5. Tax Compliance Certificate (Attach copy)...
6. Address...
7. Contact Information
    a) Telephone number ....
    b) E-mail address..
8. Contact Person..
9. L.R. No. /Nos. ....
10. Nature of business..
11. Specify services to be provided...

Date applied...................................... ....

Signature of applicant

Terms and Conditions

1. An applicant shall furnish the Authority with the protocols governing the operations of the Auction in a form satisfactory to the Authority.
2. The protocols shall restrict the applicant to the business of operating a coffee auction and related services.
3. The protocols shall contain the applicable fees and charges for membership and

for services rendered by and between members

4. The protocols shall contain guidelines for disclosure of the daily trading report of the auction.
5. Satisfy the Authority on the applicant financial capacity, functional expertise and infrastructure to undertake coffee auctioning in the Republic of Kenya.
6. Have in its employments sufficient number of persons with adequate, professional and other relevant competencies and experience.
7. An applicant shall digitize and automate the coffee Auction system for efficient services delivery and information dissemination.

FORM G8

AGRICULTURE AND FOOD AUTHORITY

r10(2)(f)

LICENCE OF AUCTION ORGANISER

Name...

License No. ....

Authority's Code...

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

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

Email ....

Mobile number...

County.......................................

City ....

Road..................

Name of Building ....

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

Is/are hereby authorized to undertake the business of an auction organizer ....

....

Issued by:

Director, Coffee Directorate

Signature..

Date.................................

Stamp:

Subject to Terms and Conditions:

1. An auction organizer shall submit their auctioning returns to the Authority on weekly and monthly basis.
2. An auction organizer shall comply with the Coffee Industry Code of Practice andStandards.
3. An auction organizer shall allow free access to the premises by the inspectorsauthorized by the Authority.
4. The Authority may vary, suspend or revoke the license issued if the holder fails to abide with the terms and conditions of the licence.
5. The licence shall not be transferable.

FORM P

COUNTY GOVERNMENT OF -----------------------------------

r25(5)

COFFEE GROWERS NOTIFICATION OF DETAILS TOWARDS FACILITATION OF REMISSION OF COFFEE SALES PROCEEDS THROUGH DIRECT SETTLEMENT SYSTEM

1. Name of the grower...
2. Grower Code.................... Address................. ZIP Code.................
3. Category of grower (Tick as appropriate)

   Cooperative [ ] Association [ ] Estate [ ] Other[ ] specify.......................
4. Location of Grower: County.............................
5. Sub-County.................................... Ward................
   Village/Road.....................................E-mail..............................
   Mobile Number: ....
6. The following are Officials/Signatories to the Grower account and shall transact for the grower

Name of Official/Owner/Agent	ID NO	Signature
a)	....	
b)	....	
c)	....	
d)	....	

(Attach copies of IDs, minutes electing the committee, introduction letter by the County Commissioner Cooperatives)

7. Details of Bank Account

   Name of Bank/Financial Institutions ....

   Branch..

   Account Number ....

   Contact of Bank (if any) ....

8. Details of service contracts and loan obligations to which payments are due

   a) Name of Service contract(s) ....

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

   ....

   (Attach additional documents)

   c) Other (specify)..

   Attach list if space is not adequate)

9. Prepared by –

   a) Name of Authorized person: ....

   b) Signature ....

   c) Position at Grower institution/Estate ....

   d) Mobile Number...

   e) National ID/No..

      (Attach Copy of ID)

   f) Date ....

   g) Stamp...

22. The Second Schedule to principal Regulations is amended in Part F on requirements of a coffee buyers licence by—

(a) deleting paragraph 5;

(b) deleting paragraph 7 and substituting therefor the following new paragraph—

   7. Access to an authorized cupping laboratory.

(c) deleting paragraph 8.

23. The Third Schedule to principal Regulations is amended—

(a) in Part C by deleting the words "the grower miller or appointed agent or broker" appearing in paragraph 1 and substituting therefor the following words "the coffee miller-marketer, a grower miller, a grower marketer or appointed agent".

(b) by deleting Part F.

24. The Fourth Schedule to the principal Regulations is amended by—

(a) deleting the heading and substituting therefor the following new heading—

Commercial Milling Agreement.

(b) deleting the word "miller" wherever it appears and substituting therefor the words "miller marketer".

25. The Sixth Schedule to principal Regulations is amended by deleting Part A and substituting therefor the following new Part—

PART A

A grower marketer or grower miller who has secured an overseas buyer contract for the coffee, shall—

1. Store coffee for direct sales at designated warehouses.
2. Enter into a direct sales contract in the format prescribed under these guidelines and shall lodge the contract with the Authority for registration and approval.
3. Submit to the Authority a sample of 250gm of the said coffee for quality analysis and for arbitration purposes.
4. Have the coffee inspected by the Authority, in order to ascertain the quality, quantity and the value and for approval of the contract.
5. Be issued with an inspection certificate for every coffee consignment declared to the Authority for direct sales to ascertain the coffee quality. The inspection certificate shall be one of the requirements for clearance of direct sales exports.
6. The Authority liquorer shall conduct quality analysis and issue a certificate of conformity with coffee grading and quality standards.
7. Direct coffee sales shall be subject to price competition at the Nairobi Coffee Auctions whereby the Direct sales price shall serve as a reserve price.
8. Where coffee with a direct sales offer fetches a higher price at the Coffee auction than the direct sale price offered, the prospective direct sale buyer shall have the right of first refusal to buy the coffee at the auction price.
9. Provided that if the prospective direct sales buyer refuses to buy the coffee at the Coffee auction price, the coffee shall be sold to highest bidder above the reserve price at the auction
10. All Direct sales price offers shall be communicated to the auction organizer five days prior to an auction.
11. Growers and overseas buyers shall agree on the mode of payment for the coffee purchased which shall be part of the contract submitted to the Authority for approval.
12. Apply to the Authority for—

(a) ICO certificate;

(b) KEPHIS certification;

(c) Movement permit(s)

(d) Quality certificate; and

(e) Any other necessary clearance

13. Appoint an agent for purposes of logistics and other processing requirements relatedto coffee exports where applicable.

14. Remit monthly returns to the Authority on Direct sales undertaken.

Made on the 7th June, 2022.

PETER MUNYA,
Cabinet Secretary for Agriculture,
Livestock, Fisheries and Co-operatives.

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NOTICE OF THE REGULATORY IMPACT STATEMENT

THE CROPS ACT

(NO. 16 OF 2013)

THE DRAFT CROPS (COFFEE)(GENERAL)(AMENDMENT) REGULATIONS, 2022

REQUEST FOR COMMENTS ON THE DRAFT REGULATORY IMPACT STATEMENT AND THE DRAFT CROPS (COFFEE)(GENERAL)(AMENDMENT) REGULATIONS, 2022

The Cabinet Secretary, Ministry of Agriculture, Livestock, Fisheries and Cooperatives is in the process of gazetting the draft Crops (Coffee)(General)(Amendment)Regulations, 2022 as provided under sections 40 of the Crops Act No. 16 of 2013.

In compliance with the provisions of the Crops Act 2013 and the Statutory Instruments Act (No. 23 of 2013), the Ministry announces to the public the availability of the draft Crops (Coffee)(General)(Amendment) Regulations, 2022 and draft Regulatory Impact Statement.

The main objective of the Amendment Regulations is to amend the provisions of the Crops (Coffee)(General) Regulations 2019 and enhance the regulation of the coffee subsector in Kenya. The Regulatory Impact Statement contains detailed information on the draft Crops (Coffee)(General)(Amendment) Regulations, 2022.

The Constitution of Kenya, 2010 and the Statutory Instruments Act, 2013 require the public to participate in the decision making-process through submission of comments to the Ministry. It is in this spirit that the Ministry requests the public to participate by submitting their comments through the provided address.

All interested persons should submit written comments on the Crops (Coffee)(General)(Amendment) Regulations, 2022 and the draft Regulatory Impact Statement using the prescribed public comments form, to reach the undersigned **not later than fourteen (14)** days from the date of publication of this notice.

There shall be a public forum on....................................... to discuss and receive stakeholders' comments on the Crops (Coffee)(General)(Amendment) Regulations, 2022.

The following documents to facilitate discussions and enable stakeholder feedback are available and can be accessed through the Ministry website: www.kilimo.go.ke

(1) Draft Crops (Coffee)(General)(Amendment) Regulations, 2022.

(2) Draft Regulatory Impact Statement.

(3) Public comments/feedback Form.

Send your written comments to either:

The Cabinet Secretary,
Ministry of Agriculture, Livestock, Fisheries and Cooperatives,
Kilimo House, Cathedral Road,
Box 30028,
Nairobi.
Or by e-mail: directorpolicy@kilimo.go.ke/psagriculture.research@kilimo.go.ke.

HON. PETER MUNYA, E.G.H,
CABINET SECRETARY
MINISTRY OF AGRICULTURE, LIVESTOCK, FISHERIES AND COOPERATIVES

CERTIFICATE OF COMPLIANCE

STATUTORY INSTRUMENTS ACT, NO. 23 of 2013

CERTIFICATE OF COMPLIANCE

UNDER THE CROPS ACT NO. 16 OF 2013

THE CROPS (COFFEE)(GENERAL)(AMENDMENT) REGULATIONS, 2022

Whereas the Cabinet Secretary for the Ministry of Agriculture, Livestock, Fisheries and Cooperatives has published the Crops (Coffee)(General)(Amendment) Regulations, 2022 pursuant to the powers conferred by section 40 of the Crops Act, IT IS HEREBY CERTIFIED that the aforesaid Crops (Coffee)(General)(Amendment) Regulations, 2022: -

a. Meet the requirements relating to Regulatory Impact Statement in the Statutory Instruments Act No. 23 of 2013 and the guidelines have been complied with; and

b. In my opinion, the Regulatory Impact Statement adequately assesses the likely impact of the Crops (Coffee)(General)(Amendment) Regulations, 2022 and the benefits of the proposed Amendment Regulations outweigh their cos' _f administration.

Dated this 06th Day of June, 2022.

Signature of Cabinet Secretary

Hon. Peter G. Munya, EGH
CABINET SECRETARY,
MINISTRY OF AGRICULTURE, LIVESTOCK, FISHERIES AND COOPERATIVES.