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THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT – SECOND SESSION – 2023

DIRECTORATE OF DEPARTMENTAL COMMITTEES
DEPARTMENTAL COMMITTEE ON AGRICULTURE AND LIVESTOCK

REPORT ON:

THE INQUIRY INTO THE MAIZE FLOUR SUBSIDY PROGRAMME FOR FINANCIAL
YEAR 2022/23

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| THE NATIONAL ASSEMBLY PAPERS LAID | |
| DATE: 07 JUN 2023 | DAY: WEDNESDAY |
| TABLED BY: | Hon. (Dr.) JOHN MUTUNGA CHAIRPERSON |
| CLERK-AT THE-TABLE: | MIRIAM MADO |

CLERKS CHAMBERS

DIRECTORATE OF DEPARTMENTAL COMMITTEES

PARLIAMENT BUILDINGS

NAIROBI

JUNE 2023

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LIST OF ABBREVIATIONS AND ACRONYMS

| | | |
|--------|---|---|
| UDA | - | United Democratic Alliance |
| ODM | - | Orange Democratic Movement |
| NOPEU | - | National Ordinary People Empowerment Union |
| CMA | - | Cereal Millers Association |
| GMOA | - | Grain Mill Owners' Association |
| NCPB | - | National Cereals and Produce Board |
| KSh | - | Kenya Shillings |
| FY | - | Financial Year |
| AFA | - | Agriculture and Food Authority |
| Kgs | - | Kilograms |
| COMESA | - | Common Market for Eastern and Southern Africa |
| UN | - | United Nations |
| SDGs | - | Sustainable Development Goals |
| KEBS | - | Kenya Bureau of Standards |

LIST OF ANNEXURES

1. Adoption Schedule
2. Minutes
3. Contracts submitted by the stakeholders
4. Letters Inviting Stakeholders for the Meetings

CHAIRPERSON'S FOREWORD

This report contains proceedings of the Departmental Committee on Agriculture and Livestock on the inquiry into the Maize Flour Subsidy Programme implemented in the FY 2022/23.

The objective of the inquiry was to establish whether the Maize Flour Subsidy Programme for FY 2022/23 achieved its objective of providing cheap sifted maize flour to Kenyans and whether there was value for money.

In the recent years, Kenya has been experiencing maize deficit as a result of prolonged drought which has increased in frequency and intensity, below average rainfall performance, high cost of agricultural inputs, decreasing acreage of land for farming due to population growth, poor agronomic practices among others. To bridge the deficit, the country relies on maize imports from the East African Community and COMESA Region. However, this was not the case in 2022 because there was poor production of maize in the Region.

Due to the maize shortage, prices increased from KSh. 3,000 to KSh. 3,500 per 90 Kg bag in April 2022 to KSh. 4,600 to KSh. 5,000 in May 2022. To cushion consumers from the high prices, the Government waived duties and levies on maize imports from countries outside the East African and COMESA regions to bridge the gap. Despite this, maize prices continued to rise due to shortage, disruption in the global supply chain and high fuel prices. A 2Kg packet of sifted maize flour was retailing at between KSh. 190 and KSh. 215. The Government made a decision to further cushion consumers through the Maize Flour Subsidy Programme.

In carrying out the inquiry, the Committee held meetings with the Cereal Millers Association, the Grain Mill Owners Association and the Ministry of Agriculture and Livestock Development. The Committee also received a written submission on the Programme from the National Treasury and Economic Planning and Office of the Attorney General.

From the meetings, the Committee established that sifted maize flour under the Programme was not stamped and this may have reduced the success levels of the Programme. The Committee received two different contracts from the stakeholders but established that all millers that participated in the Programme signed the same contract.

The Committee received different figures of maize flour supplied in the Programme from the Ministry of Agriculture and Livestock, the Cereal Millers Association and the Grain Mill Owners Association. Additionally, the amount of money paid and that owed to the millers provided to the Committee by the three stakeholders were different.

From the above observations, the Committee recommended that the millers under Grain Mill Owners' Association be paid the money owed to them by the Ministry. The Committee will undertake further investigation into the matter in order to determine the fate of the Cereal Millers' Association.

The Committee is grateful to the Offices of the Speaker and Clerk of the National Assembly for the logistical and technical support accorded to it during its sittings. The Committee further wishes to thank CMA, GMOA, Ministry of Agriculture and Livestock Development, Office of the Attorney General and the National Treasury and Economic Planning for making this inquiry successful. Finally, I wish to express my appreciation to Members of the Committee and the Committee secretariat who made useful contributions towards the production and preparation of this report.

On behalf of the Departmental Committee on Agriculture and Livestock and pursuant to provisions of Standing Order 199(6), it is my pleasant privilege and honour to present to this House the Report of the Committee on the Inquiry into the Maize Flour Subsidy Programme for FY 2022/23.

Hon. (Dr.) John K. Mutunga, M.P.
Chairperson, Departmental Committee on Agriculture and Livestock

PART ONE

1 PREFACE

1.1 ESTABLISHMENT OF THE COMMITTEE

1. The Departmental Committee on Agriculture and Livestock is one of the twenty Departmental Committees of the National Assembly established under **Standing Order 216** whose mandate pursuant to the **Standing Order 216 (5)** is as follows:

- i. *To investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments;*
- ii. *To study the programme and policy objectives of Ministries and departments and the effectiveness of their implementation;*
- iii. *On a quarterly basis, monitor and report on the implementation of the national budget in respect of its mandate;*
- iv. *To study and review all the legislation referred to it;*
- v. *To study, assess and analyse the relative success of the Ministries and departments as measured by the results obtained as compared with their stated objectives;*
- vi. *To investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House;*
- vii. *To vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order 204 (Committee on appointments);*
- viii. *To examine treaties, agreements and conventions;*
- ix. *To make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;*
- x. *To consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and*
- xi. *To examine any questions raised by Members on a matter within its mandate.*

1.2 MANDATE OF THE COMMITTEE

2. In accordance with the Second Schedule to the Standing Orders, the Committee is mandated to consider, agriculture, livestock, food production and marketing.
3. In executing its mandate, the Committee oversees the Ministry of Agriculture and Livestock Development.

1.3 COMMITTEE MEMBERSHIP

4. The Departmental Committee on Agriculture and Livestock was constituted by the House on 27th October 2022 and comprises of the following Members:

Chairperson

Hon. (Dr.) John Kanyuithia Mutunga, MP
Tigania West Constituency

UDA Party

Vice-Chairperson

Hon. Brighton Leonard Yegon, MP
Konoin Constituency

UDA Party

Hon. Sabina Wanjiru Chege, CBS, MP
Kitutu Chache North Constituency

Jubilee Party

Hon. Ferdinand Kevin Wanyonyi, MP
Kwanza Constituency

Ford Kenya Party

Hon. Geoffrey Makokha Odanga, MP
Matayos Constituency

ODM Party

Hon. Justice Kipsang Kemei, MP
Sigowet/Soin Constituency

UDA Party

Hon. Jared Okello Odoyo, MP
Nyando Constituency

ODM Party

Hon. Lawrence Mpuru Aburi, MP
Tigania East Constituency

NOPEU Party

Hon. David Kiplagat, MP
Soi Constituency

UDA Party

Hon. Gabriel Gathuka Kagombe, MP
Gatundu South Constituency

UDA Party

Hon. Monicah Muthoni Marubu, MP
Lamu County

Independent Member

Hon. Pamela Njoki Njeru, MP
Embu County

UDA Party

Hon. Patrick Kibagendi Osero, MP
Borabu Constituency

ODM Party

Hon. Peter Kalerwa Salasya, MP
Mumias East Constituency

ODM Party

Hon. Yussuf Mohamed Farah, MP
Wajir West Constituency

ODM Party

1.4 COMMITTEE SECRETARIAT

5. The Committee is facilitated by the following Secretariat:

Ms. Laureen Omusa Wesonga
Clerk Assistant I/Head of Secretariat

Mr. Victor Kanda Kilimo
Clerk Assistant III

Mr. Ahmednoor Sheikh Hassan
Clerk Assistant III

Ms. Brigitta Mati
Legal Counsel I

CPA. Robert Ng'etich
Fiscal Analyst I

Mr. David Ng'eno
Research Officer II

Ms. Sheila Chebotibin
Senior Serjeant-At-Arms

Ms. Noelle Chelagat
Media Relations Officer II

Mr. Gerald Kadede
Legal Counsel II

Mr. Muhumed Shillow
Research Officer III

Mr. Richard Sang
Serjeant-At-Arms

Mr. Kelvin Sekani
Audio Officer III

PART TWO

2 BACKGROUND OF THE MAIZE FLOUR SUBSIDY PROGRAMME

2.1 INTRODUCTION

6. Maize is a cereal and the most important staple food crop in Kenya. It is grown as a subsistence and commercial crop on about 2.2 million hectares of land, by both large and small-scale farmers. The current national average production is between 16 and 20 bags per hectare but with appropriate interventions, production can be doubled.
7. It is an important food crop for humans and a key ingredient in many animal feeds. It is a major source of food not only for Kenya but for people in many parts of the world, particularly in Latin America and Africa.
8. Global production of maize was estimated at 1.05 billion metric tons in 2022, up from 990 million metric tons in 2020. Most of the increase in maize production was attributed to China, the United States of America, Brazil, Mexico, Argentina, South Africa and Ukraine.
9. In efforts to realize high maize production, different countries pursue various interventionist strategies. China, for example, introduced the following interventions aimed at making the country 95% self-sufficient in major cereals: Formulation of policies that support grain production; developing marketing and logistics systems; putting in place a grain reserve policy; and supporting development of grain processing industries.
10. Some countries in Africa have been implementing various interventions in a bid to increase productivity in the maize subsector, which have resulted to drastic increase in maize production as witnessed in Malawi and Zambia.
11. Kenya has been implementing a number of interventions to improve maize production in order to achieve food and nutritional security and to ensure that the country becomes food sufficient. However, despite the effort by the Government, the country has continued to be faced with food shortage where approximately 4.1 million people were faced with hunger in 2022, forcing the Government to rely on imports from international markets and neighbouring countries to plug off the deficit which eventually sustained negative trade of balance between exports and imports.
12. This in effect threatens Kenya's pursuit for Agenda 2030 as outlined in UN SDGS of eradicating hunger and poverty by the year 2030 and achieving sustainability in food sufficiency.

2.2 SUBSIDY PROGRAMMES IN KENYA

Interventions during President Mwai Kibaki's Administration

13. In September 2011, former President Mwai Kibaki signed into law the Price Control (Essential Goods) Bill that allowed Kenya to return to price controls on any essential commodity after the practice was abandoned in the 1990s in favour of economic liberalization.
14. The law allowed the Minister for Finance to set maximum prices of gazetted essential commodities upon consultation with the relevant industry. In the run-up to the 2017 General

Election, the Government used the order under the Price Control (Essential Goods) Act to cap flour prices at KSh. 90 for a 2Kg packet after retail prices hit KSh. 143.

Interventions during President Uhuru Kenyatta's Administration

15. In mid-2022, flour prices sky-rocketed to a record high price of KSh. 210 for a 2Kg packet. The Government introduced a short-term Maize Flour Subsidy Programme implemented between 21st July and 17th August 2022.
16. Under the Programme, consumers were to purchase a 2Kg packet of sifted maize flour at KSh. 100 instead of the prevailing price of KSh. 210 in a move that was aimed at making the flour affordable to most Kenyans.
17. It has been argued that in the Kenyan model, farmers enjoy a double subsidy. Ideally, the Government should intervene on either the supply side or the demand side, but not both. For example: the Government can intervene to keep costs of production as low as possible so that consumers buy food at market prices or allow producers to sell at market prices and subsidize prices for consumers who cannot afford these prices.

Comparative Analysis of Maize Subsidy Programmes in other Jurisdictions

18. The Chinese subsidy programme cushions both farmers and consumers. During harvest, the Government buys maize at prices higher than the market rate thus enabling farmers to break-even. The Government then sells the same at a price lower than the market price thus cushioning the consumers.
19. The consumer subsidy model has been used by India and Egypt where households are given a cash transfer to purchase food.
20. Malawi achieved food self-sufficiency through the Farm Input Subsidy Program (FISP) by increasing smallholder farmers' access to and use of improved agricultural inputs thereby boosting incomes of resource-poor farmers. The Program was administered through vouchers or coupons that enabled eligible households to purchase fertilizer, hybrid seeds and pesticides at reduced prices. The program targeted smallholder farmers who own land and were legitimate residents of their villages. The strategy increased maize productivity in Malawi.

Conclusion

21. To maintain stable production and prices, the Government needs to focus on long-term interventions that will improve productivity and lower the production costs per unit. These include among others water harvesting and storm water management initiatives to preserve water during the rainy season for sustainable production year-round and climate smart agriculture.
22. Increase investment in irrigated agriculture by both the National and county governments as the case of Galana-Kulalu Irrigation Project to increase the area under irrigation.
23. The government needs to restructure the fertilizer subsidy program to improve access and timely delivery, incorporate soil quality testing and crop needs in fertilizer decisions, incorporate extension services and include private sector in the Fertilizer Subsidy Programme and the type of fertilizer that is subsidized should suit local conditions because tailored fertilizers have an effect on

improving maize yields. Expand fertilizer subsidy to both small and large-scale farmers and include lime in the Subsidy Programme.

24. When short-term intervention in the markets is required, it should be strategic and with a clear exit strategy. Such a response should be limited to managing shocks such as pest infestation, crop failure due to drought and disease outbreaks. Currently, short-term interventions seem to be the only response, leading to the same challenges being repeated.
25. Provision and promotion of improved maize seeds that are climate resilient to counties as well as effective crop pest and disease control measures.
26. Invest in early warning systems to enhance the resilience of farmers in adapting and mitigating the effects of climate change.

2.3 THE MAIZE FLOUR SUBSIDY PROGRAMME FOR FY 2022/23

27. During consideration of Supplementary Estimates No. 1 for FY 2022/23 Members of the Departmental Committee on Agriculture and Livestock observed that KSh. 7.267 billion had been spent on the Maize Flour Subsidy Programme out of which KSh. 4 billion had been paid under Article 223 of the Constitution while KSh. 3.267 billion was yet to be paid to the millers.
28. The KSh. 4 billion was spent in July 2022 and presented to the Committee for regularisation through the Supplementary Estimates as required by the Constitution. The Committee did not approve the expenditure on account of non-disclosure of information on who the maize suppliers were, the quantity of maize supplied, the areas in which the subsidised maize flour was supplied and the retail outlets that sold the maize.
29. It is for the above reasons that the Committee resolved to conduct an inquiry into the Maize Flour Subsidy Programme whose objectives were, To:
 - i. find out whether the Programme achieved its objective;
 - ii. establish whether the identification process for the millers was free and fair; and
 - iii. find out if there was value for money in the execution of the Programme.

PART THREE

3 MEETING WITH STAKEHOLDERS ON THE MAIZE FLOUR SUBSIDY PROGRAMME

30. In a bid to establish the status of the Maize Flour Subsidy Programme for the Financial Year 2022/23, the Committee invited stakeholders for the meetings via letters REF: NA/DDC/A&L/2023/005, NA/DDC/A&L/2023/006, NA/DDC/A&L/2023/022 and NA/DDC/A&L/2023/023. The Committee received submissions from the following stakeholders:

- i. Cereal Millers' Association
- ii. Grain Mill Owners' Association
- iii. Ministry of Agriculture and Livestock Development
- iv. The National Treasury and Economic Planning
- v. Office of the Attorney General

The stakeholders submitted as follows:

3.1 CEREAL MILLERS' ASSOCIATION

In a meeting held on Tuesday, 14th March 2023, Ms. Paloma Fernandes, Chief Executive Officer of the Cereal Millers' Association responded to the questions asked by the Committee as follows:

31. **How the millers who participated in the process were identified from the totality in the sector:** The Programme was open to all millers. Each miller signed their individual contract with the Ministry of Agriculture, Livestock, Fisheries and Cooperatives with clear terms.
32. **The Context and content of the contracts issued to the millers for the supply of subsidized maize flour:** Article three of the contract signed between the millers and the Government provided for pricing and calculation of the subsidy. The Government entered into contract with 29 CMA millers.
33. **How the contracts to supply the subsidized maize flour were awarded to the identified millers:** Every participating miller was required to have been registered by the Agriculture and Food Authority (AFA). The miller was required to declare its:
 - i. Milling and utilization capacities and stocks held at the commencement date of the Programme;
 - ii. Participation in an association for identification and confirmation of the payments; and
 - iii. Submit daily invoices for the subsidy amount due to the PS, State Department for Crop Development and Agricultural Research.
34. **The amount of maize flour that was supplied under the programme and the scope of coverage of the country:** According to NCPB, 5,264,073 (24 Kg) bales of flour totaling 126,337,752 Kgs were supplied by all millers. This amounted to approximately KSh. 6.6 billion.
35. **The amount of money that the government owes for the supply of maize:** Members of CMA supplied flour worth KSh. 4,495,356,547.12. The millers were paid KSh. 1,905,845,377.07 leaving a balance of KSh. 2,589,511,170.05.

36. **How the distribution of maize flour was done under the Programme and how it was managed and any possible list of retail outlets that flour reached:** A multi-agency taskforce was put in place to oversee successful implementation of the Programme.

The Ministry of Agriculture, Livestock, Fisheries and Cooperatives was responsible for deploying market surveillance teams to ensure that the flour was sold at the maximum recommended retail price of KSh. 100 per 2 Kg packet.

3.2 GRAIN MILL OWNERS' ASSOCIATION

In a meeting held on Tuesday, 14th March 2023, Mr. Ken Nyaga, Chairman of the Grain Mill Owners' Association responded to the questions asked by the Committee as follows:

37. **How the millers who participated in the process were identified from the totality in the sector:** The Programme was open to all millers who registered their interest to participate in the Programme and signed contracts with the Ministry of Agriculture, Livestock, Fisheries and Cooperatives.

38. **The Context and content of the contracts issued to the millers for the supply of subsidized maize flour:** The circumstances that informed the award of the contracts was based on the responses of the millers and the vetting process by the Ministry supported by other government agencies forming the multi-agency team.

Every participating miller signed a contract with the Government.

39. **How the contracts to supply the subsidized maize flour were awarded to the identified millers:** The National Maize Flour Subsidy Programme Oversight Implementation Committee was tasked to verify the list of all registered millers participating in the Programme.

40. **The amount of maize flour that was supplied under the programme and the scope of coverage of the country:** The following are the figures that were reported in the taskforce final meeting:

| | | | |
|------|---------------------|---|--|
| i. | Total | – | KSh. 6,466,947,036 (123,143,928 Kgs); |
| ii. | Large Scale Millers | – | KSh. 3,862,243,261 (73,550,147 Kgs); and |
| iii. | Small Scale Millers | – | KSh. 2,604,253,775 (47,593,781 Kgs). |

41. **The amount of money that the government owes for the supply of maize:** Members of the Association are owed KSh. 399,552,095.37 by the Government.

42. **How the distribution of maize flour was done under the Programme and how it was managed and any possible list of retail outlets that flour reached:** The Programme was supervised by a multi-agency taskforce referred to as the National Maize Subsidy Programme Oversight Implementation Committee that had very clear terms of reference.

43. **Impact of non-payment on millers:** Most milling companies in the Association are family businesses with limited financial resources. The delayed payments have had the following effects on them:

- i. Some are facing closure due to debt burden, auctioneers and lack of money to buy new maize stocks.

- ii. Job losses.
- iii. Operational losses due to reduced operational capacity.
- iv. Broken families due to financial difficulties and mental health issues.
- v. High prices to consumers due to unavailability of locally produced flour.
- vi. Reduced faith in Government partnerships.

3.3 MINISTRY OF AGRICULTURE AND LIVESTOCK DEVELOPMENT

In a meeting held on Wednesday, 22nd March 2023, Hon. Mithika Linturi, Cabinet Secretary, Ministry of Agriculture and Livestock Development informed the committee that between January and April 2022, the country was facing an acute shortage of maize which in turn led to the increase in the prices of sifted maize flour to retail at an average of KSh. 190 to KSh. 215 per 2 Kilogram packet. In light of the above, the government made a decision to cushion consumers from the high prices by allocating resources to finance the Maize Flour Subsidy Programme. He responded to the Committee's questions as follows:

44. Identification of the millers who participated in the Programme: The CS for National Treasury and planning held meetings on 15th and 20th July 2022 to discuss the Maize Flour Subsidy Programme. Willing millers from Cereal Millers Association and Grain Mill Owners Association were requested to express their interest by submitting their particulars. The millers who met the requirements entered into an agreement with the Ministry of Agriculture, Livestock, Fisheries and Cooperatives.

45. How the contracts were awarded to the identified millers and the requisite safeguards: The contracts were awarded to millers who met the set conditions for the supply of subsidized maize flour.

A multi-sectoral committee comprising of representatives of the Ministry of Agriculture, Livestock, Fisheries and Cooperatives; the National Treasury and Planning, Kenya Revenue Authority, Ministry of Interior and Coordination of National Government, Cereal Millers Association and Grain Mill Owners Association was established to operationalize the Programme.

46. The amount of maize flour that was supplied under the Programme: The total amount of maize flour supplied by millers under the Programme was 121,714,844 Kgs.

47. How payment was structured and who was paid what amount: The contract provided that millers were to be paid every 5th calendar day upon submission of the relevant documents. A total of 119 millers supplied the subsidized maize flour across the country. The millers were paid KSh. 3,366,999,497 for distributing 121,714,844 Kgs of maize flour. The pending amount is KSh. 3,023,029,817.

48. How distribution was managed: Millers were responsible for milling and distributing subsidized maize flour. Officers were stationed at the contracted millers' premises to monitor daily activities including dispatch of the flour to retail outlets. The Ministry of Interior and Coordination of National Government and officers from KRA had the responsibility of ensuring delivery of the flour to the last mile.

3.4 THE NATIONAL TREASURY AND ECONOMIC PLANNING

49. In a letter, Ref: AG/3/037 Vol. V/(38) dated 26th April 2023, the National Treasury stated that all the activities pertaining to the Maize Flour Subsidy Programme were oversighted by the State Department for Crop Development and Agricultural Research. The only role played by the National Treasury was to grant approval under Article 223 of the Constitution for additional budget of KSh. 4 billion to the State Department of Crop Development and Agricultural Research out of a request of KSh. 9.12 billion. The KSh. 4 billion was to cater for part payment of the monies owed to millers under the Maize Flour Subsidy Programme.
50. Authority to withdraw the money from the Consolidated Fund was sought from the Controller of Budget as required by Section 17(4) and (5) of the Public Finance Management Act, 2012 and the funds were released to the State Department in two batches: KSh. 2 billion on 28th July 2022; and KSh. 2 billion on 4th August 2022.

3.5 OFFICE OF THE ATTORNEY GENERAL AND DEPARTMENT OF JUSTICE

51. In a letter, Ref: AG/CONF/6/B/18/1 dated 16th May 2023, the Office of the Attorney General informed the Committee that the Ministry of Agriculture, Livestock, Fisheries and Cooperatives wrote to the Office requesting for a review of the draft contract that would be signed between the Ministry and individual millers for the Maize Flour Subsidy Programme.
52. The Office issued comments after reviewing the draft contract and requested the Ministry to note and furnish the Office with copies of the signed contracts for their information and records but the letter was not responded to.
53. Further, the Ministry of Agriculture, Livestock, Fisheries and Cooperatives sought the Office's advice relating to the suspension of the Maize Flour Subsidy Programme. The Office responded that:
- i. Article 7.2 of the contract provides that the duration of the contracts shall be an initial period of four weeks from the date of commencement and may be extended by mutual consent of the parties. There is no provision for suspension of the contracts.
 - ii. Article 14.2 of the contract provides that the Ministry may terminate the contract immediately should it be ascertained that the concerned miller has supplied sifted maize flour that does not conform to the standards set by KEBS. There is no provision under Article 14 for termination on the basis of inadequate exchequer releases from the National Treasury.
 - iii. Article 4.3 states that the contracts are contingent on the creation and funding of the Maize Flour Subsidy Account. In view of this, the Office guided that non-provision of funding for the Programme during the contract period may form a merited basis for legal action for breach of the contract in relation to the outstanding invoices. As at close of business on 12th August 2022, the State Department had received invoices worth KSh. 2.98 billion out of which KSh. 1.62 billion had been paid to the millers. The State Department is under contractual duty to pay the outstanding invoices.

- iv. Article 14.4 of the contract provides that the millers concerned will be entitled, in addition to terminating the contracts, to general and liquidated damages and interest on the delayed payments (at the government rate of interest on a pro rata basis accruing from the first date of default). The award of the general and liquidated damages and the attendant interest will be dependent on the proof of loss that the millers will demonstrate in legal proceedings.
- v. In view of the foregoing, the Office advised that if the Ministry is unable to continue with the contracts on account of insufficient budget, the outstanding invoices should be paid as they are already a contractual liability. The Ministry may thereafter engage the millers with a view of amicably terminating the contracts for the remainder of the contractual period to avert the risk of litigation that may result in general and liquidated damages against the Ministry.

PART FOUR

4 ISSUES FOR DETERMINATION/OBSERVATIONS

The issues for determination are as per the terms of reference of the inquiry as set by the Committee under paragraph 29 of this report. Based on evidence gathered from stakeholders' submissions, the Committee determined the issues as follows:

4.1 TO FIND OUT WHETHER THE PROGRAMME ACHIEVED ITS OBJECTIVE

54. From the CMA's submission, the Committee established that the millers manufactured the white sifted maize flour and supplied it to wholesalers who supplied it to the value chains. It was however not their responsibility to find out where the flour was sold and if it got to the consumers at the required retail price of KSh. 100.
55. On their part, GMOA stated that most of their members are small millers that operate in estates and areas close to residential houses. Due to this, the flour was bought by neighbouring families and most of it was therefore not distributed through the value chains.
56. A multi-agency team comprising of various government agencies was put in place to oversee the Programme in all stages. However, the team did not provide a report on the areas of coverage of the subsidised maize flour.
57. Sifted maize flour under the Programme was not stamped '*SUBSIDY*' and this may have reduced the success levels of the Programme because the flour could have been hoarded by unscrupulous value chain players and sold at higher profits at the end of the Programme.
58. From the above information, the Committee noted that the Programme may not have achieved its intended objective of supplying sifted white maize flour to citizens in all parts of the country at the price of KSh. 100.

4.2 TO ESTABLISH WHETHER THE IDENTIFICATION PROCESS FOR THE MILLERS WAS FREE AND FAIR

59. CMA, GMOA and the Ministry of Agriculture and Livestock Development informed the Committee that the Programme was open to all millers that are members of the two Associations that were willing to participate in it. Contracts were signed between the millers and the Ministry of Agriculture, Livestock, Fisheries and Cooperatives.
60. GMOA informed the Committee that members of its Association signed the contracts for supply of sifted maize flour a day after their counterparts in the Cereal Millers' Association. Scrutiny of the contracts however showed that millers from both Associations begun signing the contracts on 20th July 2022.
61. The contract submitted by the Ministry in their presentation was different from the contract signed by the millers. The contract submitted by the Ministry was similar to that presented to the Committee by the Grain Mill Owners' Association while the contract signed by all millers was similar to the one presented to the Committee by the Office of the Attorney General and the Cereal Millers Association.

62. From the foregoing, the Committee observed that the process of identification of the millers was free and fair.

4.3 TO FIND OUT IF THERE WAS VALUE FOR MONEY IN THE EXECUTION OF THE PROGRAMME

63. The figures of maize supplied in the Programme provided by the Ministry of Agriculture and Livestock Development, the Cereal Millers' Association and the Grain Mill Owners' Association were all different.
64. In the Ministry's records, KSh. 3.5 billion was paid to maize millers under Article 223 of the Constitution for the Programme. In the meetings, CMA submitted that they had been paid KSh. 1,905,845,377.07 while GMOA stated that they were paid KSh. 841,784,292.89 which makes a total of KSh. 2,747,629,669.96.
65. Of the KSh. 4 billion that was paid to maize millers, KSh. 500 million was paid to CMA to cater for the interest accrued from the debt owed to millers for the Maize Flour Subsidy Programme of FY 2017/18. Neither the Ministry nor CMA provided a proper explanation on how the money was distributed to the millers. Despite undertaking to submit documentation on the same, none has been received by the Committee so far.
66. The amount of money owed to CMA submitted to the Committee was different from the amount of money that they were demanding the Ministry to pay as seen from the letter that was attached to their presentation. CMA explained that the figure submitted to the Committee had gone up because two other millers joined the Programme later. They however did not submit details of the two millers.
67. During consideration of the Supplementary Estimates No. 1 for FY 2022/23, the Committee established that the total amount spent on the Maize Flour Subsidy Programme was KSh. 7.267 billion, however, CMA informed the Committee that the total amount for the Programme was KSh. 6.6 billion while GMOA stated that the total amount for the Programme was KSh. 6.4 billion.
68. There was discrepancy in the amount submitted in the Ministry's submission and that presented during the Supplementary Estimates No. 1 for FY 2022/23. The Ministry explained that the figure of KSh. 3.267 billion submitted in the Supplementary Estimates had been arrived at before reconciliations were done. The figure was mainly because of repeated invoices hence the new figure of KSh. 3.023 billion.
69. Consequently, the Committee established that the presentation made by GMOA was genuine and had no underlying issues hence value for money. The presentation by CMA had a number of underlying issues and therefore no value for money on their part.

4.4 FURTHER OBSERVATION

70. There are a number of issues that need to be interrogated on the part of CMA like details of millers that were paid the KSh. 500 million on account of interest accrued on the Maize Flour Subsidy Programme for FY 2017/18 and how the money was paid to them; the total amount of money owed to the CMA; and Members of CMA that supplied the maize flour. The Committee will conduct further investigations and table a report with recommendations on the way forward.

PART FIVE

5 COMMITTEE RECOMMENDATIONS

The Committee made the following recommendations on the inquiry into the Maize Flour Subsidy Programme for FY 2022/23:

1. The KSh. 500 million owed to members of the Grain Mill Owners' Association should be factored in the Budget Estimates for FY 2023/24 and paid because their computations were clear, the membership of the Association that participated in the Programme was static and they did not participate in the Maize Flour Subsidy Programme for FY 2017/18.
2. The KSh. 841,784,292.89 that was paid to GMOA under Article 223 of the Constitution be regularised because the Committee established that there was value for money on the Association's part.
3. The Ministry of Agriculture and Livestock Development should come up with a policy on how to engage in future subsidy programmes within three months of adoption of this report and submit a copy of the same to the Committee.

SIGNED.......... DATE..........

HON. (DR.) JOHN KANYUTHIA MUTUNGA, MP
CHAIRPERSON

DEPARTMENTAL COMMITTEE ON AGRICULTURE AND LIVESTOCK

REFERENCES

1. Central Bank of Kenya (January 2023), Report on the Agriculture Sector Survey.
2. Magut Isaac, Dr. Lilian Mwenda and Dr. Anita Wachira (2019). Effects of Government Input Subsidy Program on Maize Production in Uasin Gishu County. *Journal of Public Policy and Administration* ISSN 2520-5315 (Online) Vol. 4, Issue 1, No. 4, pp 45 – 57.
3. Orhun, G.E. (2013), "Maize for Life", *International Journal of Food Science and Nutrition Engineering* 3(2), 13-16.
4. Timothy Njagi Njeru (2017), *Why Kenya's short-term fixes won't resolve its maize supply crisis*

ANNEX ONE:
ADOPTION
SCHEDULE






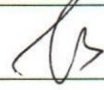


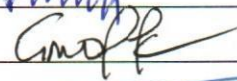



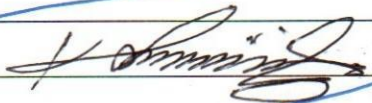



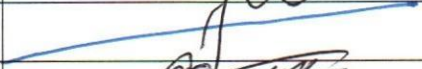
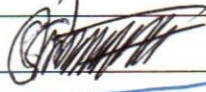
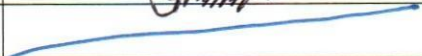
**THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT - SECOND SESSION - 2023**

DEPARTMENTAL COMMITTEE ON AGRICULTURE AND LIVESTOCK

**ADOPTION SCHEDULE FOR THE REPORT ON THE INQUIRY INTO THE MAIZE FLOUR
SUBSIDY PROGRAMME FOR FINANCIAL YEAR 2022/23**

DATE: 6TH JUNE 2023

VENUE: FIFTH FLOOR, CONTINENTAL HOUSE

| NAME | SIGNATURE |
|--|---|
| 1. HON. (DR.) JOHN KANYUITHIA MUTUNGA, MP - CHAIRPERSON |  |
| 2. HON. BRIGHTON LEONARD YEGON, MP - VICE- CHAIRPERSON |  |
| 3. HON. SABINA WANJIRU CHEGE, CBS, MP |  |
| 4. HON. FERDINAND KEVIN WANYONYI, MP |  |
| 5. HON. GEOFFREY MAKOKHA ODANGA, MP |  |
| 6. HON. JUSTICE KIPSANG KEMEI, MP |  |
| 7. HON. JARED OKELLO ODOYO, MP |  |
| 8. HON. LAWRENCE MPURU ABURI, MP |  |
| 9. HON. DAVID KIPLAGAT, MP |  |
| 10. HON. GABRIEL GATHUKA KAGOMBE, MP |  |
| 11. HON. MONICAH MUTHONI MARUBU, MP |  |
| 12. HON. PAMELA NJOKI NJERU, MP |  |
| 13. HON. PATRICK KIBAGENDI OSERO, MP |  |
| 14. HON. PETER KALERWA SALASYA, MP |  |
| 15. HON. YUSSUF MOHAMED FARAH, MP |  |



ANNEX TWO:
MINUTES OF THE
COMMITTEE'S
SITTINGS



THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT - SECOND SESSION - 2023

DIRECTORATE OF DEPARTMENTAL COMMITTEES

MINUTES OF THE 30TH SITTING OF THE DEPARTMENTAL COMMITTEE ON AGRICULTURE & LIVESTOCK HELD ON TUESDAY, 6TH JUNE 2023 IN THE COMMITTEE ROOM ON FIFTH FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS AT 12.00 NOON

PRESENT

- | | | |
|---|---|-------------------------|
| 1. Hon. (Dr.) John Kanyuithia Mutunga, MP | - | Chairperson |
| 2. Hon. Brighton Leonard Yegon, MP | - | Vice-Chairperson |
| 3. Hon. Ferdinand Kevin Wanyonyi, MP | | |
| 4. Hon. Geoffrey Makokha Odanga, MP | | |
| 5. Hon. Jared Okello Odoyo, MP | | |
| 6. Hon. David Kiplagat, MP | | |
| 7. Hon. Pamela Njoki Njeru, MP | | |
| 8. Hon. Peter Kalerwa Salasya, MP | | |

ABSENT WITH APOLOGY

1. Hon. Sabina Wanjiru Chege, CBS, MP
2. Hon. Justice Kipsang Kemei, MP
3. Hon. Lawrence Mpuru Aburi, MP
4. Hon. Gabriel Gathuka Kagombe, MP
5. Hon. Monicah Muthoni Marubu, MP
6. Hon. Patrick Kibagendi Osero, MP
7. Hon. Yussuf Mohamed Farah, MP

SECRETARIAT

- | | | |
|----------------------------|---|----------------------|
| 1. Ms. Laureen O. Wesonga | - | Clerk Assistant I |
| 2. Mr. Victor Kanda Kilimo | - | Clerk Assistant III |
| 3. Mr. Ahmednoor Hassan | - | Clerk Assistant III |
| 4. Mr. Robert Ng'etich | - | Fiscal Analyst II |
| 5. Mr. David Ng'eno | - | Research Officer II |
| 6. Mr. Muhumed Shillow | - | Research Officer III |
| 7. Mr. Kelvin Sakani | - | Audio Officer III |
| 8. Mr. Richard Sang | - | Serjeant-at-Arms |

AGENDA

1. Prayers
2. Preliminaries/Introductions
 - i. Adoption of the Agenda

- ii. Remarks by the Chairperson
3. Confirmation of Minutes/Matters Arising
4. **Adoption of the Report on the Inquiry into the Maize Flour Subsidy Programme for FY 2022/23**
5. Any other Business
6. Adjournment/Date of the Next Sitting

MIN. NO. NA/A&L/2023/109: PRELIMINARIES

The meeting was called to order at twenty-five minutes past twelve o'clock with a word of prayer by the Chairperson. The agenda was then adopted having been proposed by Hon. Peter K. Salasya, MP and seconded by Hon. Pamela N. Njeru, MP. The Chairperson then welcomed the meeting to deliberate on the day's agenda.

MIN. NO. NA/A&L/2023/110: CONFIRMATION OF MINUTES OF THE PREVIOUS SITTING

Minutes of the 29th Sitting held on Thursday, 25th May 2023 were adopted as a true reflection of the proceedings having been proposed by Hon. Ferdinand K. Wanyonyi, MP and seconded by Hon. Jared Okello Odoyo, MP.

MIN. NO. NA/A&L/2023/111: MATTERS ARISING

No matters arose from the confirmed minutes.

MIN. NO. NA/A&L/2023/112: ADOPTION OF THE REPORT ON THE INQUIRY INTO THE MAIZE FLOUR SUBSIDY PROGRAMME FOR FY 2022/23

The meeting deliberated and resolved that:

1. A letter should be written to the Ministry of Agriculture and Livestock Development requesting for the following information:
 - i. A breakdown of the KSh. 4 billion that was paid to millers under Article 223 of the Constitution;
 - ii. Documentation indicating how the KSh. 533 million was paid to millers i.e. invoices from the millers, bank transfers of the said amount, list of millers that were paid and any other document related to the payment;
 - iii. A breakdown of the KSh. 1.7 billion pending bills on account of the Maize Flour Subsidy Programme for FY 2017/18;
 - iv. Source of the second contract that was presented to the Committee; and
 - v. Provide documentation showing how the KSh. 100 million paid on account of monitoring expenses was spent.
2. A meeting should be held between the Committee, Ministry of Agriculture and Livestock Development and the Cereal Millers' Association.

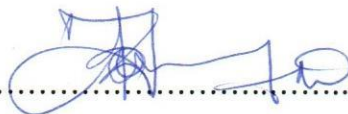
The report on the Inquiry into the Maize Flour Subsidy Programme was adopted having been proposed by Hon. David Kiplagat, MP and seconded by Hon. Ferdinand Kevin Wanyonyi, MP.

MIN. NO. NA/A&L/2023/113:

ADJOURNMENT/DATE OF THE NEXT
MEETING

There being no other business, the meeting was adjourned at twenty-two minutes past two o'clock. The next meeting will be held on notice.

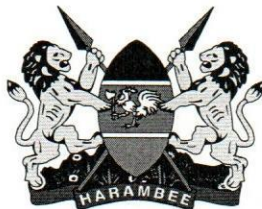
SIGNED:



DATE:

6/6/2023

HON. (DR.) JOHN KANYUTHIA MUTUNGA, MP
CHAIRPERSON, DEPARTMENTAL COMMITTEE ON AGRICULTURE &
LIVESTOCK



**THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT - SECOND SESSION - 2023**

DIRECTORATE OF DEPARTMENTAL COMMITTEES

**MINUTES OF THE 29TH SITTING OF THE DEPARTMENTAL COMMITTEE ON
AGRICULTURE & LIVESTOCK HELD ON THURSDAY, 25TH MAY 2023 IN
COMMITTEE ROOM 9, MAIN PARLIAMENT BUILDING AT 2.30 P.M.**

PRESENT

- | | | |
|---|---|--------------------|
| 1. Hon. (Dr.) John Kanyuithia Mutunga, MP | - | Chairperson |
| 2. Hon. Ferdinand Kevin Wanyonyi, MP | | |
| 3. Hon. Jared Okello Odoyo, MP | | |
| 4. Hon. Lawrence Mpuru Aburi, MP | | |
| 5. Hon. David Kiplagat, MP | | |
| 6. Hon. Gabriel Gathuka Kagombe, MP | | |
| 7. Hon. Monicah Muthoni Marubu, MP | | |
| 8. Hon. Pamela Njoki Njeru, MP | | |
| 9. Hon. Patrick Kibagendi Osero, MP | | |
| 10. Hon. Yussuf Mohamed Farah, MP | | |

ABSENT WITH APOLOGY

- | | | |
|---------------------------------------|---|-------------------------|
| 1. Hon. Brighton Leonard Yegon, MP | - | Vice-Chairperson |
| 2. Hon. Sabina Wanjiru Chege, CBS, MP | | |
| 3. Hon. Geoffrey Makokha Odanga, MP | | |
| 4. Hon. Justice Kipsang Kemei, MP | | |
| 5. Hon. Peter Kalerwa Salasya, MP | | |

SECRETARIAT

- | | | |
|----------------------------|---|---------------------|
| 1. Ms. Laureen O. Wesonga | - | Clerk Assistant I |
| 2. Mr. Victor Kanda Kilimo | - | Clerk Assistant III |
| 3. Mr. Ahmednoor Hassan | - | Clerk Assistant III |

AGENDA

1. Prayers
2. Preliminaries/Introductions
 - i. Adoption of the Agenda
 - ii. Remarks by the Chairperson
3. Confirmation of Minutes/Matters Arising
4. **Consideration of the Report on the Inquiry into the Maize Flour Subsidy Programme for FY 2022/23**
5. **Adoption of the Report on the Inquiry into the Maize Flour Subsidy Programme for FY 2022/23**

6. Any other Business
7. Adjournment/Date of the Next Sitting

MIN. NO. NA/A&L/2023/103: PRELIMINARIES

The meeting was called to order at one minute to three o'clock with a word of prayer by the Chairperson. The Chairperson then welcomed the meeting to deliberate on the day's agenda.

MIN. NO. NA/A&L/2023/104: CONFIRMATION OF MINUTES OF THE PREVIOUS SITTING

Minutes of the following sittings were adopted as a true reflection of the proceedings:

1. 4th Sitting held on 22nd November 2022 having been proposed by Hon. Monicah Marubu, MP and seconded by Hon. Patrick Osero, MP;
2. 5th Sitting held on 30th November 2022 having been proposed by Hon. Yussuf Farah, MP and seconded by Hon. Pamela Njeru, MP;
3. 6th Sitting held on 18th January 2023 having been proposed by Hon. Pamela Njeru, MP and seconded by Hon. Monicah Marubu, MP;
4. 7th Sitting held on 18th January 2023 having been proposed by Hon. David Kiplagat, MP and seconded by Hon. Yussuf Farah, MP;
5. 8th Sitting held on 19th January 2023 having been proposed by Hon. Gabriel Kagombe, MP and seconded by Hon. David Kiplagat, MP;
6. 9th Sitting held on 19th January 2023 having been proposed by Hon. Pamela Njeru, MP and seconded by Hon. Patrick Osero, MP;
7. 10th Sitting held on 20th January 2023 having been proposed by Hon. Patrick Osero, MP and seconded by Hon. Monicah Marubu, MP;
8. 11th Sitting held on 20th January 2023 having been proposed by Hon. Yussuf Farah, MP and seconded by Hon. David Kiplagat, MP;
9. 12th Sitting held on 13th February 2023 having been proposed by Hon. David Kiplagat, MP and seconded by Hon. Ferdinand Wanyonyi, MP;
10. 13th Sitting held on 13th February 2023 having been proposed by Hon. Monicah Marubu, MP and seconded by Hon. Gabriel Kagombe, MP;
11. 14th Sitting held on 14th February 2023 having been proposed by Hon. Ferdinand Wanyonyi, MP and seconded by Hon. Jared Okello, MP;
12. 15th Sitting held on 14th February 2023 having been proposed by Hon. Jared Okello, MP and seconded by Hon. Gabriel Kagombe, MP;
13. 16th Sitting held on 28th February 2023 having been proposed by Hon. Lawrence Aburi, MP and seconded by Hon. Yussuf Farah, MP;
14. 17th Sitting held on 28th February 2023 having been proposed by Hon. Gabriel Kagombe, MP and seconded by Hon. Ferdinand Wanyonyi, MP;
15. 18th Sitting held on 1st March 2023 having been proposed by Hon. Patrick Osero, MP and seconded by Hon. Lawrence Aburi, MP;
16. 19th Sitting held on 1st March 2023 having been proposed by Hon. Pamela Njeru, MP and seconded by Hon. Patrick Osero, MP;
17. 20th Sitting held on 14th March 2023 having been proposed by Hon. Jared Okello, MP and seconded by Hon. Yussuf Farah, MP;
18. 21st Sitting held on 14th March 2023 having been proposed by Hon. Gabriel Kagombe, MP and seconded by Hon. David Kiplagat, MP;
19. 22nd Sitting held on 22nd March 2023 having been proposed by Hon. Patrick Osero, MP and seconded by Hon. Pamela Njeru, MP;

20. 23rd Sitting held on 24th March 2023 having been proposed by Hon. David Kiplagat, MP and seconded by Hon. Jared Okello, MP;
21. 24th Sitting held on 24th March 2023 having been proposed by Hon. Pamela Njeru, MP and seconded by Hon. Yussuf Farah, MP;
22. 25th Sitting held on 15th May 2023 having been proposed by Hon. Monicah Marubu, MP and seconded by Hon. Pamela Njeru, MP;
23. 26th Sitting held on 15th May 2023 having been proposed by Hon. Yussuf Farah, MP and seconded by Hon. David Kiplagat, MP;
24. 27th Sitting held on 16th May 2023 having been proposed by Hon. Monicah Marubu, MP and seconded by Hon. David Kiplagat, MP; and
25. 28th Sitting held on 16th May 2023 having been proposed by Hon. Patrick Osero, MP and seconded by Hon. Yussuf Farah, MP.

MIN. NO. NA/A&L/2023/105:

MATTERS ARISING

No matters arose from the confirmed minutes.

MIN. NO. NA/A&L/2023/106:

**CONSIDERATION OF THE REPORT ON
THE INQUIRY INTO THE MAIZE FLOUR
SUBSIDY PROGRAMME FOR FY 2022/23**

The meeting observed that:

The amount of money owed to the Cereal Miller's Association submitted to the Committee during was different from the amount of money that they were demanding the Ministry to pay as seen from the letter that was attached to their presentation. CMA explained that the figure submitted to the Committee had gone up because two other millers joined the Programme later. They however did not submit details of the two millers.

The Committee recommended that:

1. The money owed to members of the Grain Mill Owners' Association should be paid because their computations were clear, the membership of the Association that participated in the Programme was static and they did not participate in the Maize Flour Subsidy Programme for FY 2017/18.
2. The Committee will conduct further investigations into the matter to clear the pending issues i.e. details of millers that were paid the KSh. 500 million on account of interest accrued on the Maize Flour Subsidy Programme for FY 2017/18 and how the money was paid to them; the total amount of money owed to the CMA; and Members of CMA that supplied the maize flour.
3. The Ministry of Agriculture and Livestock Development needs to come up with a policy on how to engage in future subsidy programme.

MIN. NO. NA/A&L/2023/107:

**ADOPTION OF THE REPORT ON THE INQUIRY
INTO THE MAIZE FLOUR SUBSIDY PROGRAMME
FOR FY 2022/23**

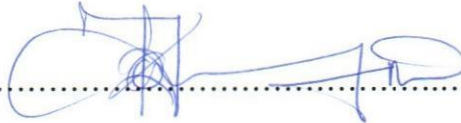
The agenda was deferred to a later date.

MIN. NO. NA/A&L/2023/108:

ADJOURNMENT/DATE OF THE NEXT
MEETING

There being no other business, the meeting was adjourned at five minutes past four o'clock. The next meeting will be held on notice.

SIGNED:



DATE:

6/6/2023

HON. (DR.) JOHN KANYUITHIA MUTUNGA, MP
CHAIRPERSON, DEPARTMENTAL COMMITTEE ON AGRICULTURE &
LIVESTOCK



**THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT - SECOND SESSION - 2023**

DIRECTORATE OF DEPARTMENTAL COMMITTEES

**MINUTES OF THE 22ND SITTING OF THE DEPARTMENTAL COMMITTEE ON
AGRICULTURE & LIVESTOCK HELD ON WEDNESDAY, 22ND MARCH 2023 IN THE
BOARDROOM ON FIFTH FLOOR, CONTINENTAL HOUSE AT 10.00 A.M.**

PRESENT

- | | | |
|---|---|-------------|
| 1. Hon. (Dr.) John Kanyuithia Mutunga, MP | - | Chairperson |
| 2. Hon. Sabina Wanjiru Chege, CBS, MP | | |
| 3. Hon. Ferdinand Kevin Wanyonyi, MP | | |
| 4. Hon. Geoffrey Makokha Odanga, MP | | |
| 5. Hon. Justice Kipsang Kemei, MP | | |
| 6. Hon. Lawrence Mpuru Aburi, MP | | |
| 7. Hon. Jared Okello Odoyo, MP | | |
| 8. Hon. David Kiplagat, MP | | |
| 9. Hon. Pamela Njoki Njeru, MP | | |
| 10. Hon. Patrick Kibagendi Osero, MP | | |
| 11. Hon. Peter Kalerwa Salasya, MP | | |
| 12. Hon. Yussuf Mohamed Farah, MP | | |

ABSENT WITH APOLOGY

- | | | |
|-------------------------------------|---|------------------|
| 1. Hon. Brighton Leonard Yegon, MP | - | Vice-Chairperson |
| 2. Hon. Gabriel Gathuka Kagombe, MP | | |
| 3. Hon. Monicah Muthoni Marubu, MP | | |

SECRETARIAT

- | | | |
|----------------------------|---|----------------------------|
| 1. Ms. Laureen O. Wesonga | - | Clerk Assistant II |
| 2. Mr. Victor Kanda Kilimo | - | Clerk Assistant III |
| 3. Mr. Ahmednoor Hassan | - | Clerk Assistant III |
| 4. CPA. Robert Ngetich | - | Fiscal Analyst II |
| 5. Mr. Gerald Kadede | - | Legal Counsel II |
| 6. Ms. Noelle Chelagat | - | Media Relations Officer II |
| 7. Mr. Muhumed Shillow | - | Research Officer III |
| 8. Mr. Richard Sang | - | Serjeant-at-Arms |
| 9. Mr. Kelvin Sekani | - | Audio Recording Officer |

STAKEHOLDERS

MINISTRY OF AGRICULTURE AND LIVESTOCK DEVELOPMENT

| | | |
|---------------------------------|---|---|
| 1. Hon. Mithika Linturi | - | CS Agriculture & Livestock |
| 2. Mr. Joseph Kirubi | - | Secretary Adm. MOALD |
| 3. Mr. Josphat G. Muhunyu | - | Agriculture Secretary |
| 4. Mr. Peter O. Owoko | - | Director Agricultural Policy Research & Regulations |
| 5. Mr. David Kithale | - | Assistant Director of Agriculture |
| 6. Mr. Tobias Osano | - | Chief Finance Officer, MOALD |
| 7. Ms. Beatrice Nyamwamu | - | Ag. Director General, AFA |
| 8. Mr. Richard Bii | - | Senior Deputy Director/SCMS |
| 9. Mr. Douglas Mutemi | - | DAG, MOALD |
| 10. Ms. Charity Muriuki | - | DAG, MOALD |
| 11. Mr. Rodgers Kiprotich Menin | - | SCMO, MOALD |
| 12. Mr. John M. Ndonga | - | MMI, NCPB |
| 13. Mr. John Ngetich | - | CS, NCPB |
| 14. Mr. John Marete | - | Communication Office of the CS |
| 15. Mr. Ensume Mithika | - | Personal Assistant to the CS |
| 16. Ms. Florence Mulati | - | SDS, MOALD/SDCD |
| 17. Mr. John M. Gichuru | - | HOF, NCPB |

AGENDA

1. Prayers
2. Preliminaries/Introductions
 - i. Adoption of the Agenda
 - ii. Remarks by the Chairperson
3. Confirmation of Minutes/Matters Arising
4. **Meeting with the Ministry of Agriculture and livestock Development to deliberate on the Maize Flour Subsidy Programme and the Strategic Food Reserve Trust Fund**
5. Any other Business
6. Adjournment/Date of the Next Sitting

MIN. NO. NA/A&L/2023/72:

PRELIMINARIES

The meeting was called to order at two minute to ten o'clock with a word of prayer by the Chairperson. The Chairperson then called for introduction of those present in the meeting.

Members raised concern about failure of the Cabinet Secretary to honor the Committee's invitations for meetings in the past. The CS apologized stating that he was attending to other official engagements on the dates that he had been invited for the meetings. He noted the importance of the Committee and undertook to comply with future invitations.

MIN. NO. NA/A&L/2023/73:

CONFIRMATION OF MINUTES OF THE PREVIOUS SITTING

Agenda deferred

**MEETING WITH THE MINISTRY OF
AGRICULTURE & LIVESTOCK
DEVELOPMENT TO DELIBERATE ON THE
MAIZE FLOUR SUBSIDY PROGRAMME**

The CS submitted to the committee that between January and April, 2022, the country was facing an acute shortage of maize which in turn led to the increase in the prices of sifted maize flour to retail at an average of KSh. 190 to KSh. 215 per 2 kilogram packet. In light of the above the government made a decision to cushion consumers from the high prices by allocating resources to finance the Maize Flour Subsidy Programme. He responded to the Committee's questions as follows:

1. Identification of the millers who participated in the Programme:

The CS for National Treasury and planning held meetings on 15th and 20th July 2022 to discuss the Maize Flour Subsidy Programme. Willing millers from Cereal Millers Association and Grain Mill Owners Association were requested to express their interest by submitting their particulars. The millers who met the requirements entered into an agreement with the Ministry of Agriculture, Livestock, Fisheries and Cooperatives.

2. How the contracts were awarded to the identified millers and the requisite safeguards

The contracts were awarded to millers who met the set conditions for the supply of subsidized maize flour.

A multi-sectoral committee comprising of representatives of the Ministry of Agriculture, Livestock, Fisheries and Cooperatives; the National Treasury and Planning, Kenya Revenue Authority, Ministry of Interior and Coordination of National Government, Cereal Millers Association and Grain Mill Owners Association was established to operationalize the Programme.

3. The amount of maize flour that was supplied under the Programme

The total amount of maize flour supplied by millers under the Programme was 121,714,844 Kgs.

4. How payment was structured and who was paid what amount

The contract provided that millers were to be paid every 5th calendar day upon submission of the relevant documents. A total of 119 millers supplied the subsidized maize flour across the country. The millers were paid KSh. 3,366,999,497 for distributing 121,714,844 Kgs of maize flour. The pending amount is KSh. 3,023,029,817.

5. How distribution was managed

Millers were responsible for milling and distributing subsidized maize flour. Officers were stationed at the contracted millers' premises to monitor daily activities including dispatch of the flour to retail outlets. The Ministry of Interior and Coordination of National Government and officers from KRA had the responsibility of ensuring delivery of the flour to the last mile.

DELIBERATIONS

1. Difference in the figures of maize supplied

The Committee observed that the figures of maize supplied in the Programme provided by the Ministry, the Cereal Millers Association and the Grain Mill Owners Association are all different.

2. Deliberations on the Maize Flour Subsidy Programme

The Cabinet Secretary informed the meeting that the Ministry was not part of the deliberations between the National Treasury and the millers on the Maize Flour Subsidy Programme and therefore not privy to what was agreed between the two parties.

3. The Maize Flour Subsidy Programme for FY 2017/18

The meeting was informed that there were pending bills of KSh. 14 billion owed to the Programme. The National Treasury provided budgetary support of KSh. 12 billion which was used to pay millers, farmers and suppliers of maize to NCPB. The outstanding pending bill of KSh. 1.39 billion is the commission fee owed to NCPB.

4. Audit of the Maize Flour Subsidy Programme

The CS informed the meeting that he had ordered for an audit of the Programme. He had received the report of the audit that morning and hadn't gone through it. He undertook to share details of the report once he goes through it.

5. Role of NCPB in the Programme

NCPB is a commercial state agency. Its role was to do production monitoring. Officers from the Board were supposed to confirm the amount of flour produced by each miller. The KSh. 100 million paid to them was for administrative expenses. They undertook to provide an enumeration of how the money was spent.

6. Difference in the amounts for the Maize Flour Subsidy Programme as declared in the Ministry's submission and in the Supplementary Estimates No. 1 for FY 2022/23

The Committee noted that there was discrepancy in the amounts submitted in the Ministry's submission and that presented during the Supplementary Estimates No. 1 for FY 2022/23. The Ministry stated that the figure of KSh. 3.267 billion submitted in the Supplementary Estimates had been arrived at before reconciliations were done. The figure was mainly because of repeated invoices hence the new figure of KSh. 3.023 billion.

7. Difference in the contracts submitted by the Ministry

The Committee observed that the contract submitted by the Ministry in their presentation was different from the contract signed by the millers. The contract submitted by the Ministry was similar to that presented to the Committee by the Grain Mill Owners Association while the contract signed by all millers was similar to the one presented to the Committee by the Cereal Millers Association.

The Cabinet Secretary informed the meeting that he was not aware of the difference in the contracts as the contracts were prepared by the Office of the Attorney General.

8. Interest charged on the principal amounts owed to the millers

The CS informed the meeting that millers took the Ministry to court and it was agreed that the Ministry pays an interest of 12% to 13% on the amount owed to the millers.

10. Food balance sheet in the country

The CS observed that despite the fact that there are various types of food in Kenya, most citizens only recognize maize as a source of carbohydrates. This has put a lot of pressure on maize given that it's also used as an ingredient in the preparation of animal feeds. He stated that there is need to encourage Kenyans to eat other foods besides maize.

The CS undertook to share with the Committee the food balance sheet in the country within a week.

MIN. NO. NA/A&L/2023/75:

**MEETING WITH THE MINISTRY OF
AGRICULTURE & LIVESTOCK
DEVELOPMENT TO DELIBERATE ON THE
STRATEGIC FOOD RESERVE TRUST FUND**

The Cabinet Secretary informed the Committee that the Strategic Food Trust Fund was dealing with maize when it was originally established as the Strategic Grain Reserve Trust Fund under Legal Notice No. 55 of 2002. A review was done under Legal Notice No. 15 of 2015 where it was renamed to the Strategic Food Reserve Trust Fund where the reserve was expanded to include other food commodities such as beans, fish, rice, milk powder and canned beef.

The objectives of the Fund were to:

1. Stabilize the food supply and prices in the country;
2. Arrange for procurement, storage and sale of food commodities;
3. Maintain adequate strategic food reserve in cash and physical stock; and
4. Mobilize resources to support its functions and objectives.

When the Fund was incepted in 2002, it was administered by the Ministry of State for Special Programmes. It was transferred to the Ministry of Agriculture, Livestock, Fisheries and Cooperatives in the FY 2013/14.

The CS responded as follows to the Committees questions:

1. Performance of the Strategic Food Reserve Trust Fund (SFRTF)

The Fund performed as follows:

| Financial Year | Funding (KSh.) | Quantity Purchased (90 Kg bags) | Purchase Price (KSh. Per 90 Kg bag) |
|----------------|----------------|---------------------------------|-------------------------------------|
| 2010/11 | 1,196,701,305 | 241,612 | 2,500 |
| 2021/12 | 2,000,000,000 | 618,105 | 2,800 |
| 2012/13 | 1,700,000,000 | 642,843 | 3,000 |
| 2013/14 | 2,990,000,000 | 1,024,824 | 3,000 |
| 2014/15 | 4,437,961,384 | 1,190,890 | 2,500 |
| 2015/16 | 1,327,000,000 | 494,867 | 2,500 |
| 2016/17 | 4,000,000,000 | 992,000 | 2,800 |
| 2017/18 | 7,098,793,054 | 3,625,667 | 3,200 |
| 2018/19 | 3,531,502,404 | 417,961 | 2,500 |

2. Reasons/justification for the revocation of the Strategic Food Reserve Trust Fund Board

The Ministry justified the revocation of the SFRTF pointing out that the Reserve was facing several policy, technical and administrative challenges including:

- i. Overlap of mandates between SFRTF and NCPB;
- ii. The Principal Secretary, in line with the Regulations was a member of the Oversight Board as well as the administrator of the Fund therefore creating the possibility of conflict in management of the Fund;
- iii. Administrative and managerial shortcomings such as the lack of functional instruments for monitoring trade flows which affected processes such as stocking of food products

and early warning in case of impending crisis as well as mechanisms and triggers for market stabilization; and

- iv. The purchase of maize at a higher price by the Government and selling at lower prices in order to cushion both producers and consumers was interfering with market forces.

The Ministry sought the cabinet's approval to restructure the National Food Reserve and the Cabinet gave a directive through a letter REF: CAB/GEN 3/1/1/Vol. XVI (51) dated 19th March 2020 guided on institutional and legal reforms including disbandment of the SFRTF.

3. A quantitative outlay of the stock held by the SFRTF then and what happened to the same.

The Government gave the NCPB instructions to purchase maize for strategic food reserve in 2017/18 and 2018/19. NCPB undertook quality management of maize in the stores until May 2019 when the SFR Oversight Board directed NCPB to sell the maize to identified millers.

At the time of sell of the maize, there were 3,961,515 (90 Kg bags) of maize fit for human consumption, 25,307 (90 Kgs bags) adjusted for normal plant/drying losses and 56,806 (90 Kgs bags) of contaminated maize flour.

The Cabinet Secretary further stated that the SFR Oversight Board instructed the NCPB to sell the remaining stock (3,961,515) through two letters dated 29th May, 2019 and 30th August, 2019 respectively. The total amount generated from the sale was KSh. 9,614,451,924.

4. Where the money collected through the sale of the stocks went

Of the KSh. 9,614,451,924 that was realized from sell of stocks in the Reserve, KSh. 696,651,300 was used to pay part of the pending bills while KSh. 8,858,213,284 was remitted to the Central Bank of Kenya on 24th December 2019.

5. Difference between the National Food Reserve and the SFRTF

The NCPB has a National Food Reserve Division and Food Balance Sheet Committee that will provide functional instruments for monitoring trade flows, available food quantities, early warning of impending crisis and mechanisms and triggers for market stabilization using NCPB Act Cap. 338. The Committee will develop tools and analytics that will support decision making with regards to action to stabilize food supply and market prices.

The National Food Reserve will use the Warehouse Receipt System and Voucher Incentive Programme for market stabilization interventions. This will reduce post-harvest losses. The release of stocks held in the Reserve will be determined by food balance sheet analysis and on willing buyer-willing seller basis.

DELIBERATIONS

1. Efforts that the Government is putting in place to ensure food security in the country

Agriculture is one of the devolved functions. The Ministry will work with county governments in order to increase food production in the country and reduce post-harvest losses.

2. **Why NCPB has been given the mandate to implement the new food reserve programme**
NCPB has a strong network of warehouses in all parts of the country and will therefore be accessible to all farmers.

3. **Subsidies on food**

The CS stated that subsidies are not the best way of addressing food shortage. Cash transfers are a better way because it will enable the affected persons to buy the food that they prefer as opposed to subsidies that force them to eat the subsidized food.

4. **Transfer of money from the SFRTF to the exchequer**

The amount of money transferred from the SFRTF account to the exchequer was more than what was transferred from NCPB because the SFRTF account had some money which was added to what was received from NCPB. The Ministry undertook to provide documentation to show the transfers.

5. **Aflatoxin in the maize stocks**

Some of the maize stored in NCPB was infested by aflatoxin because there was humidity in the silos and there was delay in buying jute bags for storage of the maize due to delayed release of funds by the Strategic Food Reserve Oversight Board.

6. **Implementation of the new programme**

The new approach is aimed at addressing the challenges that were experienced previously. NCPB will at any given time avail the quantities of food needed whenever they are required. Use of the warehouse receipt system will help in the management of quality and ensure that there is no wastage. It will also help farmers sell their produce since they will deposit their produce in the warehouses and sell when the prices are favorable.

Additionally, farmers supplying food to NCPB will sign contracts with the Board and will therefore have a register of the farmers.

7. **Gazettement of importation of yellow maize**

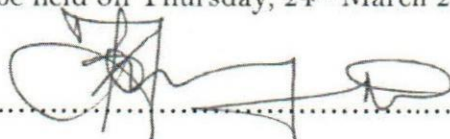
The CS informed the meeting that the Ministry had gazetted importation of 500,000 MT of yellow maize for animal feed so as to ease pressure on white maize.

MIN. NO. NA/A&L/2023/76:

ADJOURNMENT/DATE OF THE NEXT
MEETING

There being no other business, the meeting was adjourned at one minute to two o'clock. The next meeting will be held on Thursday, 24th March 2022 at 10.00 am.

SIGNED:



DATE:

25/3/2023

HON. (DR.) JOHN KANYUITHIA MUTUNGA, MP
CHAIRPERSON, DEPARTMENTAL COMMITTEE ON AGRICULTURE &
LIVESTOCK



THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT - SECOND SESSION - 2023

DIRECTORATE OF DEPARTMENTAL COMMITTEES

MINUTES OF THE 21ST SITTING OF THE DEPARTMENTAL COMMITTEE ON AGRICULTURE & LIVESTOCK HELD ON TUESDAY, 14TH MARCH 2023 IN THE MINI CHAMBER ON FIRST FLOOR, COUNTY HALL, PARLIAMENT BUILDINGS AT 02.10 P.M.

PRESENT

- | | | |
|---|---|------------------|
| 1. Hon. (Dr.) John Kanyuithia Mutunga, MP | - | Chairperson |
| 2. Hon. Brighton Leonard Yegon, MP | - | Vice-Chairperson |
| 3. Hon. Sabina Wanjiru Chege, CBS, MP | | |
| 4. Hon. Jared Okello Odoyo, MP | | |
| 5. Hon. David Kiplagat, MP | | |
| 6. Hon. Gabriel Gathuka Kagombe, MP | | |
| 7. Hon. Patrick Kibagendi Osero, MP | | |
| 8. Hon. Yussuf Mohamed Farah, MP | | |

ABSENT WITH APOLOGY

1. Hon. Ferdinand Kevin Wanyonyi, MP
2. Hon. Geoffrey Makokha Odanga, MP
3. Hon. Justice Kipsang Kemei, MP
4. Hon. Lawrence Mpuru Aburi, MP
5. Hon. Pamela Njoki Njeru, MP
6. Hon. Peter Kalerwa Salasya, MP
7. Hon. Monicah Muthoni Marubu, MP

SECRETARIAT

- | | | |
|----------------------------|---|----------------------------|
| 1. Ms. Laureen O. Wesonga | - | Clerk Assistant II |
| 2. Mr. Victor Kanda Kilimo | - | Clerk Assistant III |
| 3. Mr. Ahmednoor Hassan | - | Clerk Assistant III |
| 4. Mr. Gerald Kadede | - | Legal Counsel II |
| 5. Ms. Noelle Chelagat | - | Media Relations Officer II |
| 6. Mr. Richard Sang | - | Serjeant-at-Arms |
| 7. Mr. Kelvin Sakani | - | Audio Recording Officer |

STAKEHOLDERS

GRAIN MILL OWNERS ASSOCIATION

- | | | |
|-------------------------|---|------------------------------|
| 1. Mr. Kenedy Nyaga | - | Chairman, GMOA |
| 2. Mr. Anthony Ndirangu | - | Director, Food Chain Millers |
| 3. Mr. Paul Kinuthia | - | Valley Land Millers |

| | | |
|----------------------------|---|---|
| 4. Mr. William Karanja | - | NAKU Modern Feeds Ltd |
| 5. Mr. John Kibochi | - | Simba Mfalme Millers |
| 6. Mr. Paul Maina | - | Director, Grain Millers |
| 7. Mr. Alexander Mugo | - | Director, JOLEX |
| 8. Mr. Benson Wambugu | - | Director, Jasir Flour |
| 9. Mr. David Murimi | - | Manager, Lizbrand Multicare Ltd |
| 10. Mr. James Mugo | - | Director, RAINA Flour Mills |
| 11. Mr. Peter G Wambiri | - | Director, Range Processors Ltd |
| 12. Ms. Lucy Muchuna | - | Ass. Director, CORNBELT Flour Mills Ltd |
| 13. Mr. Paul M. Ngure | - | Director, CORNBELT Flour Ltd |
| 14. Mr. Alex Machanga | - | Naiga Upendo Millers |
| 15. Mr. George N. Mungai | - | Director, Solai Grains Handlers Ltd |
| 16. Mr. Peter Wachira | - | Director, Enducat Ent. Ltd |
| 17. Mr. Francis Kimani | - | Posho Poa Industries |
| 18. Mr. George Wanyoike | - | Home Grown Millers Ltd |
| 19. Mr. Charles Kiiru | - | Muranga Millers Ltd |
| 20. Mr. Daniel Kinoti | - | Director, Shalem Investment Ltd |
| 21. Mr. Julius Limiri | - | Director, Limy Millers |
| 22. Mr. Robinson Makori | - | Manager, Jolex Millers |
| 23. Mr. Charles Kabutu | - | FM Agricultural Stores Ltd |
| 24. Mr. Abdulahi Hassan | - | Director, Webuye Grain Millers |
| 25. Mr. Fredrick Kakui | - | Cateress Milling Ltd |
| 26. Ms. Faith Maingi | - | Faula Flours Millers Ltd |
| 27. Mr. Kennedy Waweru | - | ZURI Millers Ltd |
| 28. Mr. Paul Anthony Maina | - | CENTAUR Milling Enterprise Ltd |

AGENDA

1. Prayers
2. Preliminaries/Introductions
 - i. Adoption of the Agenda
 - ii. Remarks by the Chairperson
3. Confirmation of Minutes/Matters Arising
4. **Meeting with the Grain Mill Owners Association to deliberate on the Maize Flour Subsidy Programme**
5. Any other Business
6. Adjournment/Date of the Next Sitting

MIN. NO. NA/A&L/2022/67:

PRELIMINARIES

The meeting was called to order at twenty minutes past two o'clock with a word of prayer by the Chairperson. The Chairperson then called for introduction of those present before inviting the meeting to deliberate on the day's agenda.

MIN. NO. NA/A&L/2022/68:

CONFIRMATION OF MINUTES OF THE PREVIOUS SITTINGS

Agenda deferred

**MEETING WITH GRAIN MILL OWNERS
ASSOCIATION TO DELIBERATE ON THE
MAIZE FLOUR SUBSIDY PROGRAMME**

Mr. Ken Nyaga, Chairman of the Grain Mill Owners Association responded to the questions asked by the Committee as follows:

1. How the millers who participated in the process were identified from the totality in the sector

The Programme was open to all millers who registered their interest to participate in the Programme and signed contracts with the Ministry of Agriculture, Livestock, Fisheries and Cooperatives.

2. The Context and content of the contracts issued to the millers for the supply of subsidized maize flour

The circumstances that informed the award of the contracts was based on the responses of the millers and the vetting process by the Ministry supported by other government agencies forming the multi-agency team.

Every participating miller signed a contract with the Government.

3. How the contracts to supply the subsidized maize flour were awarded to the identified millers

The National Maize Flour Subsidy Programme Oversight Implementation Committee was tasked to verify the list of all registered millers participating in the Programme.

4. The amount of maize flour that was supplied under the programme and the scope of coverage of the country

The following are the figures that were reported in the taskforce final meeting:

- | | | | |
|------|---------------------|---|--|
| i. | Total | – | KSh. 6,466,947,036 (123,143,928 Kgs); |
| ii. | Large Scale Millers | – | KSh. 3,862,243,261 (73,550,147 Kgs); and |
| iii. | Small Scale Millers | – | KSh. 2,604,253,775 (47,593,781 Kgs). |

5. The amount of money that the government owes for the supply of maize
Members of the Association are owed KSh. 399,552,095.37 by the Government.

6. How the distribution of maize flour was done under the Programme and how it was managed and any possible list of retail outlets that flour reached

The Programme was supervised by a multi-agency taskforce referred to as the National Maize Subsidy Programme Oversight Implementation Committee that had very clear terms of reference.

7. Impact of non-payment on millers

Most milling companies in the Association are family businesses with limited financial resources. The delayed payments have had the following effects on them:

- i. Some are facing closure due to debt burden, auctioneers and lack of money to buy new maize stocks.
- ii. Job losses
- iii. Operational losses due to reduced operational capacity
- iv. Broken families due to financial difficulties and mental health issues.

- v. High prices to consumers due to unavailability of locally produced flour.
- vi. Reduced faith in Government partnerships.

DELIBERATIONS

1. Members in the Association

The Association has a membership of 373 millers. A list of the millers will be submitted to the Committee.

2. How they knew of the existence of the Programme

The chairman of the Association was called by the then CS, Ministry of Agriculture, Livestock, Fisheries and Cooperatives asking him why his Association was not in the meeting on the Maize Flour Subsidy Programme and invited the Association to submit their documents for the Programme.

3. Signing of the contract

Members of the Association signed the contract a day after Cereal Millers Association had signed the contracts. They are not aware of differences in the contract signed by the Association and that signed by the Cereal Millers Association.

4. Maize Subsidy Programme for FY 2017/18

No member of the Association participated in the Programme.

5. Success of the Programme

The Programme was not successful because it only addressed 34% of the monthly demand of the country and it ran for a short period of time.

Most maize flour from the Association was bought at source because their factories are close to the people. This interfered with the distribution process.

6. Implementation of the Programme

NCPB officials were located in milling companies participating in the Programme to verify the opening and closing stocks.

7. Shortage of maize in the country

There is maize shortage in the country. The price jumped from KSh. 5,700 to KSh. 6,100 within a week. The country may fall into a crisis soon.

A proper and well-coordinated policy paper on food security needs to be put in place. Institutions mandated to ensure food security in the country need to be entrenched in the law.

8. Branding of maize in the Programme

The maize flour in the Programme was not branded and this may have reduced the success of the Programme because unscrupulous business persons could have hoarded the flour and sold it at higher prices after expiry of the Programme.

9. Interest accrued on the outstanding balance

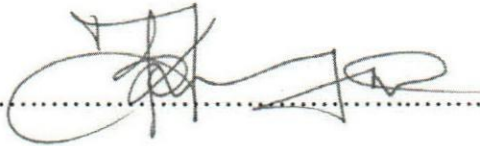
The interest accrued on the outstanding balance was about KSh. 27 million but the Association deliberated and agreed not to pursue payment of the interest.

MIN. NO. NA/A&L/2022/70:

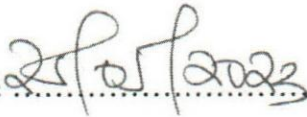
ADJOURNMENT/DATE OF THE NEXT
MEETING

There being no other business, the meeting was adjourned at four minutes past four o'clock. The next meeting will be held on Wednesday, 22nd March 2023.

SIGNED:



DATE:



HON. (DR.) JOHN KANYUITHIA MUTUNGA, MP
CHAIRPERSON, DEPARTMENTAL COMMITTEE ON AGRICULTURE &
LIVESTOCK



**THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT - SECOND SESSION - 2023**

DIRECTORATE OF DEPARTMENTAL COMMITTEES

MINUTES OF THE 20TH SITTING OF THE DEPARTMENTAL COMMITTEE ON AGRICULTURE & LIVESTOCK HELD ON TUESDAY, 14TH MARCH 2023 IN THE COMMISSION BOARDROOM ON FIRST FLOOR, COUNTY HALL, PARLIAMENT BUILDINGS AT 10.00 A.M.

PRESENT

- | | | |
|---|---|------------------|
| 1. Hon. (Dr.) John Kanyuithia Mutunga, MP | - | Chairperson |
| 2. Hon. Brighton Leonard Yegon, MP | - | Vice-Chairperson |
| 3. Hon. Sabina Wanjiru Chege, CBS, MP | | |
| 4. Hon. Lawrence Mpuru Aburi, MP | | |
| 5. Hon. Jared Okello Odooyo, MP | | |
| 6. Hon. David Kiplagat, MP | | |
| 7. Hon. Gabriel Gathuka Kagombe, MP | | |
| 8. Hon. Patrick Kibagendi Osero, MP | | |
| 9. Hon. Yussuf Mohamed Farah, MP | | |

ABSENT WITH APOLOGY

1. Hon. Ferdinand Kevin Wanyonyi, MP
2. Hon. Geoffrey Makokha Odanga, MP
3. Hon. Justice Kipsang Kemei, MP
4. Hon. Pamela Njoki Njeru, MP
5. Hon. Peter Kalerwa Salasya, MP
6. Hon. Monicah Muthoni Marubu, MP

SECRETARIAT

- | | | |
|----------------------------|---|----------------------------|
| 1. Ms. Laureen O. Wesonga | - | Clerk Assistant II |
| 2. Mr. Victor Kanda Kilimo | - | Clerk Assistant III |
| 3. Mr. Ahmednoor Hassan | - | Clerk Assistant III |
| 4. CPA. Robert Ngetich | - | Fiscal Analyst II |
| 5. Mr. Gerald Kadede | - | Legal Counsel II |
| 6. Ms. Noelle Chelagat | - | Media Relations Officer II |
| 7. Mr. Richard Sang | - | Serjeant-at-Arms |
| 8. Mr. Kelvin Sakani | - | Audio Recording Officer |

STAKEHOLDERS

CEREAL MILLERS ASSOCIATION

- | | | |
|-------------------------|---|------------------------------|
| 1. Mr. Mohamed Islam | - | Managing Director, CMA |
| 2. Ms. Paloma Fernandes | - | Chief Executive Officer, CMA |

| | | |
|--------------------------|---|--|
| 3. Mr. Bernard Mwangi | - | MD, Mama Millers Limited |
| 4. Mr. James Mukuna | - | MD, Bellamy Limited |
| 5. Mr. Mohamed Hassan | - | MD, Afraha Flour Mills Limited |
| 6. Mr. Joseph Choge | - | MD, Unga Group |
| 7. Mr. Ali Bisher | - | GM, Pembe Flour Mills Limited |
| 8. Mr. Abdulgani Pasta | - | Director, Karibu Flour Mills Limited |
| 9. Mr. Nirmal Shah | - | CEO, Goldleaf Kenya Limited |
| 11. Mr. Solomon Gitundu | - | CEO, Wakulima Flour Millers |
| 12. Mr. Ayon Gupta | - | CFO, Capwell Industries Limited |
| 13. Mr. Atin Aggarwal | - | Trident Millers limited |
| 14. Mr. Stephen Ogallo | - | CMA |
| 15. Mr. Paul Miiri | - | Accountant, Kitui Flour Mills Limited |
| 16. Mr. Caxton Kigata | - | Legal Counsel, Wamae & Allen Advocates |
| 17. Mr. Kennedy Kithinji | - | Legal Counsel, Wamae & Allen Advocates |

AGENDA

1. Prayers
2. Preliminaries/Introductions
 - i. Adoption of the Agenda
 - ii. Remarks by the Chairperson
3. Confirmation of Minutes/Matters Arising
4. **Meeting with the Cereal Millers Association to deliberate on the Maize Flour Subsidy Programme**
5. Any other Business
6. Adjournment/Date of the Next Sitting

MIN. NO. NA/A&L/2022/63:

PRELIMINARIES

The meeting was called to order at twenty-eight minutes past ten o'clock with a word of prayer by the Chairperson. The Chairperson then called for introduction of those present before inviting the meeting to deliberate on the day's agenda.

MIN. NO. NA/A&L/2022/64:

CONFIRMATION OF MINUTES OF THE PREVIOUS SITTINGS

Agenda deferred

MIN. NO. NA/A&L/2022/65:

MEETING WITH CEREAL MILLERS ASSOCIATION TO DELIBERATE ON THE MAIZE FLOUR SUBSIDY PROGRAMME

Ms. Paloma Fernandes, CEO of the Cereal Millers Association responded to the questions asked by the Committee as follows:

1. **How the millers who participated in the process were identified from the totality in the sector**
The Programme was open to all millers. Each miller signed their individual contract with the Ministry of Agriculture, Livestock, Fisheries and Cooperatives with clear terms.

2. The Context and content of the contracts issued to the millers for the supply of subsidized maize flour

Article three of the contract signed between the millers and the Government provided for pricing and calculation of the subsidy. The Government entered into contract with 29 CMA millers.

3. How the contracts to supply the subsidized maize flour were awarded to the identified millers

Every participating miller was required to have been registered by the Agriculture and Food Authority (AFA). The miller was required to declare its:

- i. Milling and utilization capacities and stocks held at the commencement date of the Programme;
- ii. Participation in an association for identification and confirmation of the payments; and
- iii. Submit daily invoices for the subsidy amount due to the PS, State Department for Crop Development and Agricultural Research.

4. The amount of maize flour that was supplied under the programme and the scope of coverage of the country

According to NCPB, 5,264,073 (24 Kg) bales of flour totaling 126,337,752 Kgs were supplied by all millers. This amounted to approximately KSh. 6.6 billion.

5. The amount of money that the government owes for the supply of maize

Members of CMA supplied flour worth KSh. 4,495,356,547.12. The millers were paid KSh. 1,905,845,377.07 leaving a balance of KSh. 2,589,511,170.05.

6. How the distribution of maize flour was done under the Programme and how it was managed and any possible list of retail outlets that flour reached

A multi-agency taskforce was put in place to oversee successful implementation of the Programme.

The Ministry of Agriculture, Livestock, Fisheries and Cooperatives was responsible for deploying market surveillance teams to ensure that the flour was sold at the maximum recommended retail price of KSh. 100 per 2 Kg packet.

DELIBERATIONS

1. Difference in the amount of money demanded for payment from the Ministry and the figure submitted to the Committee

Two members joined the Association after the last letter had been written to the Ministry requesting for payment hence the change in the amounts of money.

The Committee noted that details of the two additional millers had not been provided by the Association.

2. Participation in future subsidy programmes

The Association has participated in several subsidy programmes and will still participate if called upon.

3. Waiver of duty on maize for three months

The waiver of duty on importation of maize for three months was not successful because the time was short. Non-GMO maize was not available in South Africa and the only place they could be imported from was Mexico. Transportation of the maize from Mexico to Kenya would require 60 days and this was therefore not feasible given the timelines.

4. Maize Subsidy Programme for FY 2017/18

All the debts owed to millers who participated in the Programme were paid including the interest.

5. How communication about the Programme was done

The Association was called by the Ministry to be informed about the programme. They were not invited through formal communication. All miller associations sat in the same meeting.

6. Implementation of the Programme

The stocks of each miller participating in the Programme were verified by a government official before the Programme began. A record of the opening and closing stocks was made on a daily basis.

The millers were selling a 2 Kg packet of subsidized maize flour to the distributors at KSh. 90. Everyone in the value chain was catered for.

7. When the Programme ended

The Programme ended on different dates depending on the day that the contracts were signed. The contracts were signed on 20th, 21st and 22nd July 2022 and the Programme ended on 17th, 18th and 19th August respectively.

8. Distribution of the flour countrywide

Ministry officials were moving around the country to verify whether the subsidized maize was in retail outlets.

The demand for subsidized maize flour was very high. Most people were buying and storing the flour in their houses due to political uncertainty.

9. Shortage of maize in the country

The grain reserve in the country is too thin. This is mainly because there is competition for maize between human beings and animals. The Association has spoken to the Government to allow importation of yellow maize for livestock feed to ease the pressure on white maize.

The amount of non-GMO maize in the world market is strained but there is a lot of GMO maize. Vessels will be bringing maize into the country at the beginning of April. Supplies will stabilize in June and July when Tanzania harvests their maize.

10. Branding of maize in the Programme

The maize flour in the programme was not branded due to time constraints. The millers were only given two days' notice before the Programme began.

11. Interest accrued on the outstanding balance

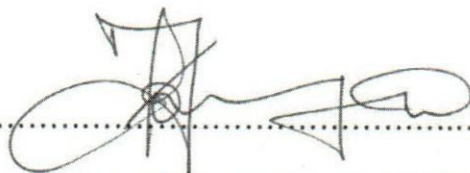
The interest accrued on the outstanding balance was KSh. 269 million. The millers stated that they are not in a position to waive the interest because they took loans to fund the Programme.

MIN. NO. NA/A&L/2022/66:

ADJOURNMENT/DATE OF THE NEXT
MEETING

There being no other business, the meeting was adjourned at one minute past two o'clock. The next meeting will be held at 2.10 pm.

SIGNED:



DATE:

25/05/2023

HON. (DR.) JOHN KANYUITHIA MUTUNGA, MP
CHAIRPERSON, DEPARTMENTAL COMMITTEE ON AGRICULTURE &
LIVESTOCK

ANNEX THREE:
CONTRACTS
SUBMITTED BY
STAKEHOLDERS

DRAFT 2: 17TH JULY, 2022

REPUBLIC OF KENYA

CONTRACT BETWEEN

THE GOVERNMENT OF THE REPUBLIC OF KENYA

THROUGH

THE MINISTRY OF AGRICULTURE, LIVESTOCK, FISHERIES AND COOPERATIVES

STATE DEPARTMENT OF CROPS DEVELOPMENT AND AGRICULTURAL RESEARCH

AND

MS. _____ OF P.O. BOX _____, _____

**IN RESPECT TO THE KENYA GOVERNMENT SIFTED MAIZE FLOUR SUBSIDY
PROGRAMME 2022**

28

CONTRACT – KENYA GOVERNMENT SIFTED MAIZE FLOUR SUBSIDY PROGRAMME 2022

Between

THE GOVERNMENT OF THE REPUBLIC OF KENYA through THE MINISTRY OF AGRICULTURE, LIVESTOCK, FISHERIES AND COOPERATIVES, STATE DEPARTMENT OF CROPS DEVELOPMENT & AGRICULTURAL RESEARCH, located at Kilimo House, Cathedral Road, P.O. Box 30028-00100 Nairobi (hereinafter referred to as “the MOALFC” which expression shall where the context so admits include its assignees and successors in title) on the one part;

And

MS. XXXXXXXXX OF P.O. BOX XXXXXX, XXXXXX, a limited liability company duly registered under the Companies Act, No. 17 of 2015 of the Laws of Kenya under certificate of incorporation Number _____ and located in _____, Plot No. _____, _____, (hereinafter called “the Miller” which expression shall where the context so admits include its assignees, successors in title and legal representatives) on the other part.

(Hereinafter individually referred to as the Party and collectively as Parties);

WHEREAS the MOALFC is desirous of subsidizing the price of sifted maize flour for the purpose of mitigating the high prices of maize flour in the Country (hereinafter referred to as “The Sifted Maize Flour Subsidy Programme”) **AND**

AND WHEREAS the Miller has at the request of MOALF and subject to terms contained in this contract agreed to participate in the Sifted Maize Flour Subsidy Programme;

NOW THEREFORE in consideration of the conditions and terms herein contained, the Parties hereby agree as follows:

ARTICLE 1: SCOPE OF THE SIFTED MAIZE FLOUR SUBSIDY PROGRAMME

- 1.1 The MOALFC shall subsidize the price of Maize Flour being produced/sold by the Miller for a period of four (4) weeks from the date of this contract.
- 1.2 The Miller shall continue to purchase maize available in the market at market rates.
- 1.3 An Oversight Committee shall be formed with representatives from the MOALFC, the National Treasury, Cereal Millers Association and Grain Mill Owners Association to oversee the effective working and success of the subsidy program and the ESCROW account set up under Article 4.4 of this contract.
- 1.4 An ESCROW account shall be opened and operated by the MOALFC at the Central Bank of Kenya and sufficient funds to be placed in this account to ensure that payments under this contract are made as per timelines set under Article 4 of this contract.

ARTICLE 2: VERIFICATION OF SALE

- 2.1 The MOALFC shall deploy their representatives to the premises and depots of the Miller and who shall be stationed there to verify the following documents provided by the Miller confirming proof of sale of Maize Flour into the market:
 - The Invoice to the Miller’s customer for the Maize Flour being sold; and

- Delivery or Dispatch document evidencing the sale of Sifted Maize Flour (as per Annex 1).
- 2.2 The documents under Clause 2.1 shall be verified by the MOALFC officers who shall sign and stamp each of the documents confirming proof of sale of the Sifted Maize Flour.
- 2.3 The Miller shall on verification by the MOALFC Officer, as per clause 2.2 above, raise and submit invoices daily for the subsidy amount together with a copy of the signed Dispatch document to the following for payment:

Principal Secretary

State Department of Crop Development and Agricultural Research,
Kilimo House
Cathedral Road,
NAIROBI

ARTICLE 3: PRICING AND CALCULATION OF THE SUBSIDY

- 3.1 The MOALFC shall subsidize the price of Maize Flour produced and sold by the Miller.
- 3.2 The Miller will sell maize flour (ex-mill and on self-collection basis) at the following prices:

| PACKAGE | PACKET SIZE | PRICE (KES) |
|---------------|-------------------------|-------------|
| 12 pack Baler | 2-kilogram | 1,080 |
| 24 pack Baler | 1-Kilogram | 1,100 |
| 24 pack Baler | 0.5-Kilogram (500 gram) | 570 |
| Single Bag | 5-Kilogram | 225 |
| Single Bag | 10-Kilogram | 440 |
| Single Bag | 50-Kilogram | 2,150 |

- 3.3 The recommended retail price of the flour is expected not to exceed, as follows:

| PACKET SIZE | SELLING PRICE (KES) |
|-------------------------|---------------------|
| 2-Kilogram | 100 |
| 1-Kilogram | 52 |
| 0.5-Kilogram (500 gram) | 30 |
| 5-Kilogram | 250 |
| 10-Kilogram | 490 |
| 50-Kilogram | 2,250 |

- 3.4 It is agreed between the Parties that the MOALFC shall deploy market surveillance teams to ensure that sifted Maize Flour is sold at the maximum recommended retail price stated.
- 3.5 The market price of maize (per 90kg bag) as at the date of this contract is in the range of KES 5,800 – KES 6,000. Based on this market price, MOALFC will compensate the miller for each unit sold as follows:

| PACKAGE | PACKET SIZE | PRICE (KES) |
|---------------|-------------------------|-------------|
| 12 pack Baler | 2-kilogram | 1,120 |
| 24 pack Baler | 1-Kilogram | 1,120 |
| 24 pack Baler | 0.5-Kilogram (500 gram) | 560 |
| Single Bag | 5-Kilogram | 235 |
| Single Bag | 10-Kilogram | 470 |
| Single Bag | 50-Kilogram | 2,330 |

30

- 3.6 The 'Goods in Trade' subsidy amount, as per Article 2.4, shall amount to **KES. 11.69 per 2kg** packet of maize flour which would equate to **KES. 140.28 per Baler of 24kg**.
- 3.7 The Total amount of Subsidy per baler of maize flour at 24Kg shall amount to **KES. 1,260.28**.

ARTICLE 4: PRICE OF THE SUBSIDY AND PAYMENT TERMS

- 4.1 The Miller shall be paid on the fifth (5th) calendar day after submitting the documents under Article 2 of this contract.
- 4.3 MOALFC confirms that payment shall be received by the Miller on the Fifth (5th) calendar day after receipt of the documents under clause 2.1 at the offices of the MOALFC. Failure on the part of MOALFC to remit the monies on time shall result in the Miller having to raise an invoice for interest on the monies outstanding at the rate of 12% p.a being the government rate of interest.
- 4.4 The payment shall be made by bank transfer through an ESCROW account that will be opened and operated by the MOALFC at the Central Bank of Kenya which will be solely used for this Maize Flour subsidy programme as per timelines set under this contract.
- 4.5 Invoices shall be forwarded to the relevant Associations' representing the Miller to the Designated Office in the State Department of Crops Development and Agricultural Research.

ARTICLE 5: WARRANTIES BY THE MOALFC AND MILLER

The MOALF warrants that:

- 5.1 It is duly authorized to enter into this contract and has been mandated through an Executive Order by the Government.
- 5.2 All outstanding refund payments to the Miller from the previous subsidy programme initiated by the MOALFC in 2017 have been duly verified as outstanding and shall be paid in three (3) equal installments over three (3) weeks from the start of this current contract.
- 5.3 MOALFC shall endeavor to engage the Kenya Revenue Authority with the aim of ensuring that all VAT refunds for the Miller are paid during the duration of the subsidy programme which shall assist the Miller in the procurement of maize.

The Miller warrants that it shall:

- 5.4 Continue to purchase maize at the prevailing market rates.
- 5.5 Endeavour to continue to supply Sifted Maize Flour to the market as per the terms of this contract and conforming to the KEBS Standards, particularly with regards to aflatoxin.

ARTICLE 6: ASSIGNMENT

- 6.1 The Parties shall NOT assign and subcontract this Contract or any part thereof without prior written consent from either Party.

ARTICLE 7: EFFECTIVE DATE AND CONTRACT DURATION

- 7.1 The effective date for the Contract shall be the date of execution by the Parties.
- 7.2 The contract duration is a period of four (4) weeks from the date hereof and can be extended by mutual consent of the Parties.

ARTICLE 8: PERFORMANCE BOND

- 8.1 The Parties shall not provide a performance bond.

ARTICLE 9: GOVERNING LAWS

- 9.1 This Contract shall be construed, governed, and interpreted in accordance with the Laws of Kenya.

ARTICLE 10: SETTLEMENT OF DISPUTES

- 10.1 The Parties shall use their best efforts to settle amicably all disputes concerning the interpretation and/or implementation of this Contract through consultations and/or negotiations between the Parties within Thirty (30) days after receipt by one Party of the other Party's request for such amicable settlement.
- 10.2 Where the Parties fail to arrive at an amicable settlement, any dispute, controversy, or claim arising out of or in connection to this contract, or breach, termination or invalidity thereof shall be settled by arbitration in accordance with the Nairobi Centre for International Arbitration (NCIA) 'Arbitration Rules, 2015.'
- 10.3 Arbitration shall be Arbitral Tribunal comprising three arbitrators. Each Party shall appoint one arbitrator and the third arbitrator, who shall act as president of the Tribunal, shall be appointed by the NCIA.
- 10.4 The decision of the Arbitration Tribunal shall be final and binding on the Parties.

ARTICLE 11: AMENDMENTS

- 11.1 The Contract shall only be amended by an instrument in writing upon the written request of either Party and upon the written acceptance of the other Party.

ARTICLE 12: VALIDITY OF PROVISIONS / SEVERABILITY

- 12.1 If any provision of this contract is held to be void, illegal, unenforceable, or in conflict with any law by any court, tribunal or administrative body of competent jurisdiction, the validity of the remaining parts and/or provisions of this contract shall not be affected thereby.

ARTICLE 13: REPRESENTATION AND WARRANTIES

- 13.1 Both Parties represent and warrant to the other that (i) it has all requisite power and authority to execute and deliver this contract and to perform its obligation hereunder (ii) execution, delivery

and performance of this contract shall not be in conflict with its laws, or any agreement, order or judgement which it is bound; and (iii) it has efficient professionals and sufficient resources available to effectively participate in this contract.

ARTICLE 14: TERMINATION OF CONTRACT

- 14.1 The Miller shall have the right to terminate this Contract by giving 7 (seven) days written notice of the intention to terminate due to the MOALFC's failure to make payment under Article 4 of this contract.
- 14.2 The MOALFC shall have the right to terminate this Contract immediately by written notice should it be ascertained that the Miller has supplied Sifted Maize Flour that does not conform with KEBS Standards.
- 14.3 Termination of the Contract shall not prejudice the fulfillment of ongoing obligations not affected by the breach.
- 14.4 Should the MOALFC occasion the breach, the Miller is entitled to, in addition to terminating the Contract, to general and liquidated damages and interest on delayed payments as per clause 4.2 under this contract.
- 14.5 Should the Miller be found to occasion the breach by providing falsified documents, will lead to automatic termination of this contract.

ARTICLE 15: WAIVER

- 15.1 Failure by either Party to exercise any of its rights under this Contract for breach shall not be deemed to be a waiver of any subsequent breach, unless it is in writing signed by the Party waiving such.
- 15.2 The headings of these clauses shall not limit or be limited by the conditions set herein.

IN WITNESS WHEREOF, the MOALFC has set its hand and the Miller has caused its common seal to
be affixed this Day of2022.

.....
SIGNED by XXXXXXXXXXXX
Principal Secretary
Ministry of Agriculture, Livestock, Fisheries & Cooperatives
State Department of Crop Development and Agricultural Research

In the presence of/Witnessed by:

.....
State Counsel

SEALED with the Common Seal of the Miller in the presence of:

.....
XXXXXX
XXXX,
XXXXXX Limited

In the presence of/Witnessed by:

.....
XXXXXX
XXXXXX,
XXXXXXX Limited

19TH JULY, 2022

REPUBLIC OF KENYA

CONTRACT BETWEEN

THE GOVERNMENT OF THE REPUBLIC OF KENYA

THROUGH

THE MINISTRY OF AGRICULTURE, LIVESTOCK, FISHERIES AND COOPERATIVES

STATE DEPARTMENT FOR CROP DEVELOPMENT AND AGRICULTURAL RESEARCH

AND

**IN RESPECT TO THE KENYA GOVERNMENT SIFTED MAIZE FLOUR SUBSIDY
PROGRAMME 2022**

CONTRACT – KENYA GOVERNMENT SIFTED MAIZE FLOUR SUBSIDY PROGRAMME 2022

Between

THE GOVERNMENT OF THE REPUBLIC OF KENYA through THE MINISTRY OF AGRICULTURE, LIVESTOCK, FISHERIES AND COOPERATIVES, STATE DEPARTMENT FOR CROP DEVELOPMENT & AGRICULTURAL RESEARCH, located at Kilimo House, Cathedral Road, P.O. Box 30028-00100 Nairobi (hereinafter referred to as “the MOALFC” which expression shall where the context so admits include its assignees and successors in title) on the one part;

And

MS. _____ OF P.O. BOX _____

a limited liability company duly registered under the Companies Act, No. 17 of 2015 of the Laws of Kenya under certificate of incorporation Number _____ and located in _____, Plot No. _____, (hereinafter called “the Miller” which expression shall where the context so admits include its assignees, successors in title and legal representatives) on the other part.

(Hereinafter individually referred to as the Party and collectively as Parties);

WHEREAS the MOALFC is desirous of subsidizing the price of sifted maize flour for the purpose of mitigating the high prices of maize flour in the Country (hereinafter referred to as “The Sifted Maize Flour Subsidy Programme”) **AND**

WHEREAS the Miller has at the request of MOALFC and subject to terms contained in this contract agreed to participate in the Sifted Maize Flour Subsidy Programme;

NOW THEREFORE in consideration of the conditions and terms herein contained, the Parties hereby agree as follows:

ARTICLE 1: SCOPE OF THE SIFTED MAIZE FLOUR SUBSIDY PROGRAMME

- 1.1 The MOALFC shall subsidize the price of Maize Flour being produced/sold by the Miller for a period of four (4) weeks from the date of this contract.
- 1.2 An Oversight Committee shall be formed with representatives from the MOALFC, the National Treasury, Cereal Millers Association and Grain Mill Owners Association to oversee the effective working and success of the subsidy program and the Maize Flour Subsidy Account set up under Article 4.4 of this contract. The Oversight committee will have visibility of the account balances.
- 1.3 A Maize Flour Subsidy Account shall be opened and operated by the MOALFC at the Central Bank of Kenya and sufficient funds to be placed in this account to ensure that payments under this contract are made as per timelines set under Article 4 of this contract.

ARTICLE 2: VERIFICATION OF SALE

- 2.1 The MOALFC shall deploy their representatives to the premises and depots of the Miller and who shall be stationed there to verify the following documents provided by the Miller confirming proof of sale of Maize Flour into the market:
 - The Invoices to the Miller’s customer stating the stock released and The Principal Secretary (MOALFC) for the subsidy component of the Sifted Maize Flour being sold; and
 - Summary Dispatch document evidencing the sale of Sifted Maize Flour (as per Annex I).

- 2.2 The documents under Clause 2.1 shall be verified by the MOALFC officers who shall sign and stamp each of the documents confirming proof of sale of the Sifted Maize Flour.
- 2.3 The Miller shall on verification by the MOALFC Officer, as per clause 2.2 above, raise and submit invoices daily for the subsidy amount together with a copy of the signed Summary Dispatch document to the following for payment:

Principal Secretary

State Department for Crop Development and Agricultural Research,
Kilimo House
Cathedral Road,
NAIROBI

ARTICLE 3: PRICING AND CALCULATION OF THE SUBSIDY

- 3.1 The MOALFC shall subsidize the price of Sifted Maize Flour produced and sold by the Miller.
- 3.2 The Miller will sell sifted maize flour (ex-mill and on self-collection basis) at the following prices:

| PACKAGE | PACKET SIZE | PRICE (KES) |
|---------------|-------------------------|-------------|
| 12 pack Baler | 2-kilogram | 1,080 |
| 24 pack Baler | 1-Kilogram | 1,100 |
| 24 pack Baler | 0.5-Kilogram (500 gram) | 570 |
| Single Bag | 5-Kilogram | 225 |
| Single Bag | 10-Kilogram | 440 |
| Single Bag | 50-Kilogram | 2,150 |

- 3.3 The recommended retail price of the flour is expected not to exceed, as follows:

| PACKET SIZE | SELLING PRICE (KES) |
|-------------------------|---------------------|
| 2-Kilogram | 100 |
| 1-Kilogram | 52 |
| 0.5-Kilogram (500 gram) | 30 |
| 5-Kilogram | 250 |
| 10-Kilogram | 490 |
| 50-Kilogram | 2,250 |

- 3.4 It is agreed between the Parties that the MOALFC shall deploy market surveillance teams to ensure that sifted Maize Flour is sold at the maximum recommended retail price stated. The Miller shall not be held accountable for retail prices (stated in 3.3) in the market and shall only be held liable to comply with the prices set out in 3.2.
- 3.5 The market price of maize (per 90kg bag) as at the date of this contract is in the range of KES 5,800 – KES 6,000. Based on this market price, MOALFC will compensate the miller for each unit sold as follows:

| PACKAGE | PACKET SIZE | PRICE (KES) |
|---------------|-------------------------|-------------|
| 12 pack Baler | 2-kilogram | 1,120 |
| 24 pack Baler | 1-Kilogram | 1,120 |
| 24 pack Baler | 0.5-Kilogram (500 gram) | 560 |
| Single Bag | 5-Kilogram | 235 |
| Single Bag | 10-Kilogram | 470 |
| Single Bag | 50-Kilogram | 2,330 |

- 3.6 The subsidy compensated to the Miller will be reviewed on a weekly basis to adjust for changes in the market price of maize.
- 3.7 Taking note of the 'Goods in Trade' the Sifted Maize Flour Subsidy will be **KES. 105.02 per 2kg** packet of maize flour which would equate to **1,260.28** (or KES 52.51 per Kg) **per Baler of 24kg.**

ARTICLE 4: PRICE OF THE SUBSIDY AND PAYMENT TERMS

- 4.1 The Miller shall be paid on the fifth (5th) calendar day after submitting the documents under Article 2 of this contract.
- 4.2 MOALFC confirms that payment shall be received by the Miller on the Fifth (5th) calendar day after receipt of the documents under clause 2.1 at the offices of the MOALFC. Failure on the part of MOALFC to remit the monies on time shall result in the Miller having to raise an invoice for interest on the monies outstanding at the government rate of interest on a pro-rata basis accruing from the first day of default.
- 4.3 The payment shall be made by bank transfer through a Maize Flour Subsidy Account that will be opened and operated by the MOALFC at the Central Bank of Kenya which will be solely used for this Sifted Maize Flour Subsidy programme as per timelines set under this contract. This contract is contingent on the creation and funding of the Maize Flour Subsidy Account.
- 4.4 Invoices shall be forwarded to the relevant Associations' representing the Miller to the Designated Office in the State Department for Crop Development and Agricultural Research. The National Treasury will endeavour to fund the Account to the extent of an agreed weekly budgeted amount.

ARTICLE 5: WARRANTIES BY THE MOALFC AND MILLER

The MOALFC warrants that:

- 5.1 It is duly authorized to enter into this contract and has been mandated through an Executive Order by the Government.
- 5.2 All outstanding refund payments to the Miller from the previous subsidy programme initiated by the MOALFC in 2017 and have been duly verified and approved for payment be paid within the Sifted Maize Flour Subsidy Programme period.
- 5.3 MOALFC will endeavor to engage the Kenya Revenue Authority with the aim of fast-tracking all VAT refunds for the Miller are paid within four (4) months of commencement of the Sifted Maize Flour Subsidy Programme.
- 5.4 The commencement of the programme will be based on the following:
- 5.4.1 The Sifted Maize Flour Subsidy Programme Account is opened and funded as per Article 1.3; and,
- 5.4.2 The trained MOALFC representative is present at the Miller's premises.

The Miller warrants that it shall:

- 5.5 Continue to purchase maize at the prevailing market rates as mentioned in Article 3.5.

- 5.6 Endeavour to continue to supply Sifted Maize Flour to the market as per the terms of this contract and conforming to the KEBS Standards, particularly with regards to aflatoxin.

ARTICLE 6: ASSIGNMENT

- 6.1 The Parties shall NOT assign and subcontract this Contract or any part thereof without prior written consent from either Party.

ARTICLE 7: EFFECTIVE DATE AND CONTRACT DURATION

- 7.1 The effective date for the Contract shall be the date of execution by the Parties.
- 7.2 The contract duration is for an initial period of four (4) weeks from the date of commencement of this Contract and may be extended by mutual consent of the Parties.

ARTICLE 8: PERFORMANCE BOND

- 8.1. The Parties shall not provide a performance bond.

ARTICLE 9: GOVERNING LAWS

- 9.1 This Contract shall be construed, governed, and interpreted in accordance with the Laws of Kenya.

ARTICLE 10: SETTLEMENT OF DISPUTES

- 10.1 The Parties shall use their best efforts to settle amicably all disputes concerning the interpretation and/or implementation of this Contract through consultations and/or negotiations between the Parties within Thirty (30) days after receipt by one Party of the other Party's request for such amicable settlement.
- 10.2 Where the Parties fail to arrive at an amicable settlement, any dispute, controversy, or claim arising out of or in connection to this contract, or breach, termination or invalidity thereof shall be settled by arbitration in accordance with the Nairobi Centre for International Arbitration (NCIA) 'Arbitration Rules, 2015.'
- 10.3 Arbitration shall be Arbitral Tribunal comprising three arbitrators. Each Party shall appoint one arbitrator and the third arbitrator, who shall act as president of the Tribunal, shall be appointed by the NCIA.
- 10.4 The decision of the Arbitration Tribunal shall be final and binding on the Parties.

ARTICLE 11: AMENDMENTS

- 11.1 The Contract shall only be amended by an instrument in writing upon the written request of either Party and upon the written acceptance of the other Party.

ARTICLE 12: VALIDITY OF PROVISIONS / SEVERABILITY

- 12.1 If any provision of this contract is held to be void, illegal, unenforceable, or in conflict with any law by any court, tribunal or administrative body of competent jurisdiction, the validity of the remaining parts and/or provisions of this contract shall not be affected thereby.

ARTICLE 13: REPRESENTATION AND WARRANTIES

- 13.1 Both Parties represent and warrant to the other that (i) it has all requisite power and authority to execute and deliver this contract and to perform its obligation hereunder (ii) execution, delivery and performance of this contract shall not be in conflict with its laws, or any agreement, order or judgement which it is bound; and (iii) it has efficient professionals and sufficient resources available to effectively participate in this contract.

ARTICLE 14: TERMINATION OF CONTRACT

- 14.1 The Miller shall have the right to terminate this Contract by giving 7 (seven) calendar days written notice of the intention to terminate due to the MOALFC's failure to make payment under Article 4 of this contract.
- 14.2 The MOALFC shall have the right to terminate this Contract immediately should it be ascertained that the Miller has supplied Sifted Maize Flour that does not conform with KEBS Standards.
- 14.3 Termination of the Contract shall not prejudice the fulfillment of ongoing obligations not affected by the breach.
- 14.4 Should the MOALFC occasion the breach, the Miller is entitled to, in addition to terminating the Contract, to general and liquidated damages and interest on delayed payments as per clause 4.2 under this contract.
- 14.5 Should the Miller be found to occasion the breach by providing falsified documents, will lead to automatic termination of this contract.

ARTICLE 15: WAIVER

- 15.1 Failure by either Party to exercise any of its rights under this Contract for breach shall not be deemed to be a waiver of any subsequent breach, unless it is in writing signed by the Party waiving such.
- 15.2 The headings of these clauses shall not limit or be limited by the conditions set herein.

ANNEX FOUR:
LETTERS TO
STAKEHOLDERS



THE NATIONAL ASSEMBLY
OFFICE OF THE CLERK

P. O. Box 41842-00100
Nairobi, Kenya
Main Parliament Buildings

Telephone: +254202848000 ext. 3300
Email: cna@parliament.go.ke
www.parliament.go.ke/the-national-assembly

When replying, please quote

Ref: NA/DDC/A&L/2023/023

25th April 2023

Dr. Chris Kiptoo, CBS
Principal Secretary
The National Treasury
The National Treasury and
Economic Planning
Treasury Building, Harambee Avenue
NAIROBI

Dear *Dr. Kiptoo*,

**RE: REQUEST FOR INFORMATION ON THE MAIZE FLOUR SUBSIDY
PROGRAMME BY THE DEPARTMENTAL COMMITTEE ON
AGRICULTURE AND LIVESTOCK**

The Departmental Committee on Agriculture and Livestock is established pursuant to Standing Order 216 of the National Assembly Standing Orders, and is mandated to *inter alia*, 'investigate and inquire into all matters relating to the assigned Ministries and departments as they deem necessary, and as may be referred to them by the House.

During consideration of Supplementary Estimates No. 1 for FY 2022/23, the Committee observed that KSh. 7.267 billion had been spent on the Maize Flour Subsidy Programme out of which KSh. 4 billion was paid under Article 223 of the Constitution while KSh. 3.267 billion is yet to be paid to the millers. The Committee had reservations about the Programme and therefore did not approve the expenditure of KSh. 4 billion as presented in the Supplementary Estimates due to lack of sufficient information on the matter.

In this regard, the Departmental Committee on Agriculture and Livestock is requesting the National Treasury and Economic Planning provide written submissions on the following:


1. How the millers who participated in the programme were identified from the totality in the sector;
2. The context and content of the contracts issued to the millers for the supply of the subsidized maize flour;
3. How the contracts to supply maize flour were awarded to the identified millers and the requisite safeguards;

5. The amount of maize flour that was supplied under the Programme and scope of coverage of the country;
6. How payment was structured, who was actually paid what amount for what quantity of the subsidized maize flour and the amount of money owed to the millers;
7. Interest rate that will be charged on the money owed to the millers;
8. How the distribution was managed and where possible please list down the retail outlets that the flour was supplied to;
9. Copies of the contracts and any other documentation related to the Programme; and
10. Any other information regarding the Maize Flour Subsidy Programme that you may wish to bring to the attention of the Committee.

The information should reach the Committee on or before Tuesday, 2nd May 2023 by 5.00 p.m.

The liaison officers for this activity are Ms. Laureen Omusa Wesonga who may be contacted on tel. no. 0710820442 or email: laureen.wesonga@parliament.go.ke, Mr. Ahmednoor Hassan, tel. no. 0748993663 or email: ahmednoor.hassan@parliament.go.ke and Mr. Victor Kilimo on tel. no. 0724587091 or email: kilimo.simon@parliament.go.ke.

Yours *Sincerely,*


PETER K. CHEMWENO
For: CLERK OF THE NATIONAL ASSEMBLY

Copy to:

Prof. Njuguna Ndung'u, CBS
Cabinet Secretary
The National Treasury and
Economic Planning
Treasury Building, Harambee Avenue
NAIROBI



THE NATIONAL ASSEMBLY
OFFICE OF THE CLERK

P. O. Box 41842-00100
Nairobi, Kenya
Main Parliament Buildings

Telephone: +254202848000 ext. 3300
Email: cna@parliament.go.ke
www.parliament.go.ke/the-national-assembly

When replying, please quote

Ref: NA/DDC/A&L/2023/022

25th April 2023

Hon. Shadrack J. Mose
Solicitor General
Office of the Attorney-General and
Department of Justice
Sheria House, Harambee Avenue
NAIROBI

Dear Hon. Mose,

**RE: REQUEST FOR INFORMATION ON THE MAIZE FLOUR SUBSIDY
PROGRAMME BY THE DEPARTMENTAL COMMITTEE ON
AGRICULTURE AND LIVESTOCK**

The Departmental Committee on Agriculture and Livestock is established pursuant to Standing Order 216 of the National Assembly Standing Orders, and is mandated to *inter alia*, 'investigate and inquire into all matters relating to the assigned Ministries and departments as they deem necessary, and as may be referred to them by the House.

During consideration of Supplementary Estimates No. 1 for FY 2022/23, the Committee observed that KSh. 7.267 billion had been spent on the Maize Flour Subsidy Programme out of which KSh. 4 billion was paid under Article 223 of the Constitution while KSh. 3.267 billion is yet to be paid to the millers. The Committee had reservations about the Programme and therefore did not approve the expenditure of KSh. 4 billion as presented in the Supplementary Estimates due to lack of sufficient information on the matter.

In this regard, the Departmental Committee on Agriculture and Livestock held meetings with the Cereal Millers Association, Grain Mill Owners Association and the Ministry of Agriculture and Livestock Development to establish whether the said money was prudently used. The Committee requested the three bodies to submit copies of the contract that the millers who participated in the Programme signed. Surprisingly, the Committee received two different contracts from the institutions.

The purpose of this letter is to request the Office of the Attorney-General to submit a copy of the contract that was signed by millers who participated in the programme and detailed written submissions on the following:-

1. Whether the two contracts presented to the Committee by the millers and the Ministry of Agriculture and Livestock Development were from your Office;
2. Whether there was intention to favour one group of millers if both contracts were from your Office;
3. Why millers under CMA signed the contracts a day before their counterparts in GMOA; and
4. Any other information regarding the Maize Flour Subsidy Programme that you may wish to bring to the attention of the Committee.

The information should reach the Committee on or before **Tuesday, 2nd May 2023** by 5.00 p.m.

The liaison officers for this activity are Ms. Laureen Omusa Wesonga who may be contacted on tel. no. 0710820442 or email: laureen.wesonga@parliament.go.ke, Mr. Ahmednoor Hassan, on tel. no. 0748993663 or email: ahmednoor.hassan@parliament.go.ke and Mr. Victor Kilimo, tel. no. 0724587091 or email: kilimo.simon@parliament.go.ke.

Yours *Sincerely,*



PETER K. CHEMWENO

For: CLERK OF THE NATIONAL ASSEMBLY

Copy to:

Hon. Justin Muturi, EGH
Attorney General
Office of the Attorney General and
Department of Justice
Sheria House, Harambee Avenue
NAIROBI



THE NATIONAL ASSEMBLY
OFFICE OF THE CLERK

P. O. Box 41842-00100
Nairobi, Kenya
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When replying, please quote

Ref: NA/DDC/A&L/2023/006

28th February 2023

Mr. Phillip Kello Harsama
Principal Secretary
State Department for Crop Development
Ministry of Agriculture &
Livestock Development
Kilimo House, Cathedral Road
NAIROBI

Dear *Mr. Harsama*

**RE: MEETING WITH THE DEPARTMENTAL COMMITTEE ON
AGRICULTURE AND LIVESTOCK TO DELIBERATE ON THE MAIZE
FLOUR SUBSIDY PROGRAMME**

The Departmental Committee on Agriculture and Livestock is established pursuant to Standing Order 216 of the National Assembly Standing Orders, and is mandated to *inter alia*, 'investigate and inquire into all matters relating to the assigned Ministries and departments as they deem necessary, and as may be referred to them by the House.

During consideration of Supplementary Estimates No. 1 for FY 2022/23, the Committee observed that KSh. 7.267 billion had been spent on the Maize Flour Subsidy Programme out of which KSh. 4 billion was paid under Article 223 of the Constitution while KSh. 3.267 billion is yet to be paid to the millers. The Committee had reservations about the Programme and therefore did not approve the expenditure of KSh. 4 billion as presented in the Supplementary Estimates due to lack of sufficient information on the matter.

In this regard, the Departmental Committee on Agriculture and Livestock has scheduled a meeting with the Ministry of Agriculture and Livestock Development to discuss the Maize Flour Subsidy Programme. The Committee requests that you provide the following information:

1. How the millers who participated in the process were identified from the totality in the sector;
2. The context and content of the contracts issued to the millers for the supply of the subsidized maize flour;
3. How the contracts to supply maize flour were awarded to the identified millers and the requisite safeguards;

4. The amount of maize flour that was supplied under the Programme and scope of coverage of the country;
5. How payment was structured and who was actually paid what amount for what quantity of the subsidized maize flour;
6. How the distribution was managed and where possible please list down the retail outlets that the flour was supplied to;
7. Copies of the contracts and any other documentation related to the Programme; and
8. Any other information regarding the Maize Flour Subsidy Programme that you may wish to bring to the attention of the Committee.

In addition, the Committee has established that the Ministry intends to set up a National Food Reserve in the National Cereals and Produce Board, whose main objective is strategic food aggregation and storage in kind or cash. In this regard, the Committee requests that you provide the following information:

1. Performance of the Strategic Food Reserve Trust Fund (SFRTF).
2. Reasons/justification for revocation of the SFRTF Board.
3. A quantitative outlay of the stock held by SFRTF then and what happened to the same.
4. Given that payment for the stocks subsidy was raised through the Supplementary Estimates No. 2 for FY 2021/22, where did the money collected through sale of the stocks go?
5. Now that the Government wants to establish a National Food Reserve, how new and different is it from the previous Strategic Food Reserve?

This is therefore to invite the Cabinet Secretary for a meeting that will take place on Wednesday, 22nd March 2023 in the Mini Chamber, First Floor, County Hall, Parliament Buildings at 10.00 a.m. to deliberate on the issues outlined.

Kindly provide twenty (20) copies of your submission and send a soft copy to the Office of the Clerk via email: cna@parliament.go.ke.

The liaison officers for this activity are Ms. Laureen Omusa Wesonga who may be contacted on tel. no. 0710820442 or email: laureen.wesonga@parliament.go.ke, Mr. Ahmednoor Hassan, on tel. no. 0748993663 or email: ahmednoor.hassan@parliament.go.ke or Mr. Victor Kilimo on tel. no. 0724587091 or email: kilimo.simon@parliament.go.ke.

Yours *Sincerely,*



PETER K. CHEMWENO
For: CLERK OF THE NATIONAL ASSEMBLY

Copy to:

Hon. Franklin Mithika Linturi
Cabinet Secretary
Ministry of Agriculture & Livestock Development
Kilimo House, Cathedral Road
NAIROBI



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When replying, please quote

Ref: NA/DDC/A&L/2023/005

27th February 2023

Paloma Fernandes
Chief Executive Officer
Cereal Millers Association
Park Suites, Parklands Road,
NAIROBI

Mr. Kennedy Nyaga
Chairman
United Grain Millers Association
Enterprise Road, off Mombasa Road
P.O. Box 45510-00100
NAIROBI
info@ugma.co.ke or unitedgma2017@gmail.com

Dear *fernandes,*

**RE: MEETING WITH THE DEPARTMENTAL COMMITTEE ON
AGRICULTURE AND LIVESTOCK TO DELIBERATE ON THE MAIZE
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In this regard, the Departmental Committee on Agriculture and Livestock has scheduled meetings with millers that were contracted to supply maize flour under the Maize Flour Subsidy Programme to provide the following information to the Committee:

1. How the millers who participated in the process were identified from the totality in the sector;
2. The context and content of the contracts issued to the millers for the supply of subsidized maize flour;
3. How the contracts to supply maize flour were awarded to the identified millers;
4. The amount of maize flour that was supplied under the Programme and the scope of coverage of the country;
5. The amount of money that the Government owes them for supply of maize flour under the Programme;
6. How the distribution of maize flour under the Programme was managed and where possible please list down retail outlets that the flour was supplied to;
7. Copies of the contracts and any other documentation related to the Programme; and
8. Any other information regarding the Maize Flour Subsidy Programme that you may wish to bring to the attention of the Committee.

In addition, the committee invites the chief executive officers of maize milling companies in your Associations that supplied maize flour under the Maize Flour Subsidy Programme (and are yet to be paid) for a meeting that will take place on **Tuesday, 14th March 2023** in the Mini Chamber, First Floor, County Hall, Parliament Buildings at 10.00 a.m.

Kindly provide twenty (20) copies of your submission and send a soft copy to the Office of the Clerk via email: cna@parliament.go.ke.

The liaison officers for this activity are Ms. Laureen Omusa Wesonga who may be contacted on tel. no. 0710820442 or email: laureen.wesonga@parliament.go.ke, Mr. Ahmednoor Hassan, on tel. no. 0748993663 or email: ahmednoor.hassan@parliament.go.ke or Mr. Victor Kilimo on tel. no. 0724587091 or email: kilimo.simon@parliament.go.ke.

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27th February 2023

Paloma Fernandes
Chief Executive Officer
Cereal Millers Association
Park Suites, Parklands Road,
NAIROBI

Mr. Kennedy Nyaga
Chairman
United Grain Millers Association
Enterprise Road, off Mombasa Road
P.O. Box 45510-00100
NAIROBI
info@ugma.co.ke or unitedgma2017@gmail.com

Dear *Mr. Nyaga*

**RE: MEETING WITH THE DEPARTMENTAL COMMITTEE ON
AGRICULTURE AND LIVESTOCK TO DELIBERATE ON THE MAIZE
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