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THE NATIONAL ASSEMBLY

THIRTEENTH PARLIAMENT – SECOND SESSION – 2023

DEPARTMENTAL COMMITTEES ON FINANCE AND NATIONAL PLANNING; AND THAT ON AGRICULTURE AND LIVESTOCK

....

REPORT ON:

THE TREASURY MEMORANDUM ON ACTION PLANS TO REVIVE AND COMMERCIALISE THE STATE-OWNED SUGAR COMPANIES

THE NATIONAL ASSEMBLY
PAPERS LAID
DATE: 14 SEP 2023 DAY. Thursday
TABLED BY: Hon. Joseph Makilap MP
CLERK-AT THE TABLE: Tracy Chebet Koskei

CLERKS CHAMBERS

DIRECTORATE OF DEPARTMENTAL COMMITTEES

PARLIAMENT BUILDINGS

NAIROBI

SEPTEMBER 2023

NAIROBI **SEPTEMBER 2023**

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LIST OF ABBREVIATIONS AND ACRONYMS

UDA	-	United Democratic Alliance
ODM	-	Orange Democratic Movement
NOPEU	-	National Ordinary People Empowerment Union
UDM	-	United Democratic Movement
DAP-K	-	Democratic Alliance Party of Kenya
SONY	-	South Nyanza
SDL	-	Sugar Development Levy
SDF	-	Sugar Development Fund
CF	-	Commodities Fund
MP	-	Member of Parliament
KSh.	-	Kenya Shilling
CS	-	Cabinet Secretary
NA	-	National Assembly
DDC	-	Directorate of Departmental Committees
GoK	-	Government of Kenya
TCD	-	Tonnes of Cane per Day
COMESA	-	Common Market for Eastern and Southern Africa
TC:TS	-	Tonnes of Cane: Tonnes of Sugar
KCB	-	Kenya Commercial Bank
KEBS	-	Kenya Bureau of Standards
VAT	-	Value Added Tax
PAYE	-	Pay as you Earn
NHIF	-	National Hospital Insurance Fund
NSSF	-	National Social Security Fund
KERRA	-	Kenya Rural Roads Authority
MOU	-	Memorandum of Understanding
CEO	-	Chief Executive Officer
NSC	-	Nzoia Sugar Company
IDB	-	International Development Bank
Ha.	-	Hectare
ICT	-	Information, Communication and Technology
MUSCO	-	Muhoroni Sugar Company
NBK	-	National Bank of Kenya
CSCL	-	Chemelil Sugar Company Limited
ADC	-	Agricultural Development Corporation
AFA	-	Agriculture and Food Authority
KSB	-	Kenya Sugar Board
CMA	-	Capital Markets Authority
BETA	-	Bottom-up Economic Transformation Agenda
MOALD	-	Ministry of Agriculture and Livestock Development
NT & EP	-	National Treasury and Economic Planning
CBS	-	Chief of the Burning Spear
TPA	-	Tax Procedures Act
KRA	-	Kenya Revenue Authority
LN	-	Legal Notice
No.	-	Number
MOCO	-	Mumias Out-growers Company
UK	-	United Kingdom

MSC	-	Mumias Sugar Company
KNFSF	-	Kenya National Federation for Sugarcane Farmers
SRI	-	Sugar Research Institute
MT	-	Metric Tonne
MCA	-	Member of County Assembly
SUCAM	-	Sugar Campaign for Change
KESGA	-	Kenya Sugar Growers' Association
CIF	-	Cost, Insurance and Freight
KTDA	-	Kenya Tea Development Authority
KALRO	-	Kenya Agricultural and Livestock Research Organisation
CSR	-	Corporate Social Responsibility

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CHAIRPERSON'S FOREWORD

This report contains proceedings of the Departmental Committees on Finance and National Planning; and that on Agriculture and Livestock on the Treasury Memorandum on Action Plans to Revive and Commercialise the State-Owned Sugar Companies.

The Leader of the Majority Party, Hon. Kimani Ichung'wah, MGH, MP tabled the Treasury Memorandum on Action Plans to Revive and Commercialize State-Owned Sugar Companies on 22nd August 2023. The Speaker of the National Assembly directed that the Memorandum be referred to the Departmental Committees on Finance and National Planning; and that on Agriculture and Livestock for consideration and reporting back to the House within two weeks.

The objective of the Memorandum is to create a competitive sugar sector with the ability to withstand the withdrawal of COMESA safeguards with a focus on the modernization of sugar milling plants which will improve production and operation efficiency, enhance cane development in both nucleus estates and small-holder farms, and improve cane sucrose content to between thirteen percent (13%) and and fourteen percent (14%).

The Memorandum proposes a leasing model that will bring on board private capital, expertise and modernization of sugar mills for efficient commercial operations, leasing the nucleus estates and factory land to private investors.

While considering the Memorandum, the Joint Committee held meetings with stakeholders most of whom will be affected by the proposals in the Memorandum. The stakeholders included MCAs, MPs, sugarcane farmers, out-grower institutions, management of state-owned sugar companies, MOALD, the National Treasury and KRA among others. The meetings were held at Best Western Hotel in Kisumu County from Tuesday, 5th September 2023 to Thursday, 7th September 2023. The stakeholder engagement was conducted pursuant to Article 118 of the Constitution.

From the meetings, Members established that all the public milling companies were on their knees and the situation had been exacerbated by the lack of sugarcane in the country which had led to the temporary closure of the Companies. The factories' plant and machinery had not gone through the annual maintenance, some for years due to lack of finances. This had impacted negatively on the efficiency of the factories.

The Committee observed that while management of state-owned sugar companies supported zoning, farmers were opposed to it because they felt that the practice would tie them to sugar companies that may fail to pay them for the cane delivered. The farmers supported the introduction of five catchment areas i.e. Rift Region (Kericho, Nandi and Uasin Gishu Counties), Upper Western Region (Bungoma and Transnzoia Counties), Lower Western Region (Busia, Kakamega, Siaya and Vihiga Counties), Southern Region (Homa Bay, Kisumu, Migori and Narok Counties) and Coastal region (Kwale, Lamu and Tana River Counties).

All the stakeholders supported the proposal to write-off debts and taxes owed to GoK, KSB/CF and KRA by the sugar companies. They added that the source of funds for payment of farmers' arrears and salary arrears needs to be clearly stated and the same paid before the leasing process begins.

The stakeholders noted that it was imperative for public participation to be done during the leasing process. Their experience in the industry will enrich the process and make members of the public more receptive to the process. The farmers were categorical that the lessee should not be a company that has already invested in the sugar industry in Kenya to encourage competition in the industry.

The proposal to merge Chemelil Sugar Company and Muhoroni Sugar Company was vehemently opposed by most stakeholders because it would impact negatively on competition in the industry and would also lead to job losses. They averred that besides the nucleus estates, the two Companies had contracted farmers who supplied them with sugarcane and their acreage was therefore more than what had been provided in the Memorandum.

The Committees were implored by the stakeholders to expedite consideration of the Sugar Bill (National Assembly Bill No. 34 of 2022) because it will play a big role in reviving the sugar industry. The Bill re-introduces KSB, the Kenya Sugar Research Institute and SDL some of the keys to unlocking the potential in the sugar sub-sector. The SDL will provide funding for research which is a requirement to improve sugarcane varieties in the country.

The Committees are grateful to the Offices of the Speaker and Clerk of the National Assembly for the logistical and technical support accorded to them during the sittings. The Committees further thanks all stakeholders who participated in the consideration of the Memorandum. Finally, we wish to express our appreciation to Members of the Committees and the Committee Secretariats who made useful contributions towards the production and preparation of this report.

On behalf of the Departmental Committee on Finance and National Planning; and that on Agriculture and Livestock and pursuant to the provisions of Standing Order 199(6), it is our pleasant privilege and honour to present to this House the Report of the Committees on the Treasury Memorandum on Action Plans to Revive and Commercialise the State-Owned Sugar Companies.

Hon. CPA. Kuria Kimani, MP
Chairperson, Departmental Committee on Finance and National Planning

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

PART ONE

1 PREFACE

1.1 ESTABLISHMENT OF THE COMMITTEES

1. The Departmental Committees on Finance and National Planning; and Agriculture and Livestock are established under **Standing Order 216.** They derive their mandate from the **Standing Order 216 (5)** 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 recommendations 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 COMMITTEES

1.2.1 MANDATE OF THE DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING

2. In accordance with the Second Schedule to the Standing Orders, the Committee is mandated to consider public finance; public audit policies; financial institutions (excluding those in securities exchange); economy; investment policies; competition; banking; insurance; national statistics; population; revenue policies including taxation; national planning and development; and digital finance including digital currency.

3. In executing its mandate, the Departmental Committee on Finance and National Planning oversights:

   a. the National Treasury and Economic Planning;
   b. the Office of the Controller of Budget; and
   c. the Commission on Revenue Allocation.

1.2.2 MANDATE OF THE DEPARTMENTAL COMMITTEE ON AGRICULTURE AND LIVESTOCK

4. In accordance with the Second Schedule to the Standing Orders, the Committee is mandated to consider, agriculture, livestock, food production and marketing.

5. In executing its mandate, the Committee oversights the Ministry of Agriculture and Livestock Development.

1.3 COMMITTEE MEMBERSHIP

1.3.1 DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING

6. The Departmental Committee on Finance and National Planning was constituted by the House on 27th October 2022 and comprises the following Members:

Chairperson
Hon. CPA. Kuria Kimani, MP
Molo Constituency
UDA Party

Vice-Chairperson
Hon. (Amb.) Benjamin Langat, CBS, MP
Ainamoi Constituency
UDA Party

Hon. (Dr.) Adan Keynan, MP
Eldas Constituency
Jubilee Party

Hon. David Mboni, MP
Kitui Rural Constituency
Wiper Party

Hon. Joseph Makilap, MP
Baringo North Constituency
UDA Party

Hon. CPA. Julius Rutto, MP
Kesses Constituency
UDA Constituency

Hon. Paul Biego, MP
Chesumei Constituency
UDA Party

Hon. (Dr.) John Ariko, MP
Turkana South Constituency
ODM Party

Hon. George Sunkuiya, MP
Kajiado West Constituency
UDA Party

Hon. Andrew Okuome, MP
Karachuonyo Constituency
ODM Party

Hon. CPA. Joseph Oyula, MP
Butula Constituency
ODM Party

Hon. Umul Ker Kassim, MP
Mandera County
UDM Party

Hon. Shadrack Ithinji, MP
South Imenti Constituency
Jubilee Party

Hon. Joseph Munyoro, MP
Kigumo Constituency
UDA Party

Hon. Mohamed Machele, MP
Mvita Constituency
ODM Party

1.3.2 DEPARTMENTAL COMMITTEE ON AGRICULTURE AND LIVESTOCK

7. The Departmental Committee on Agriculture and Livestock was constituted by the House on 27th October 2022 and comprises 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
Nominated Member
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
DAP-K Party

Hon. Yussuf Mohamed Farah, MP
Wajir West Constituency
ODM Party

1.4 COMMITTEE SECRETARIAT

1.4.1 DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING

8. The Departmental Committee on Finance and National Planning is facilitated by the following Secretariat:

Mr. Benjamin Magut
Senior Clerk Assistant/Head of Secretariat

Ms. Jennifer Ndeto
Deputy Director, Legal Services

Mr. Salem Lorot
Legal Counsel I

Mr. Nebert Ikai
Clerk Assistant I

Mr. Benson Kamande
Clerk Assistant III

Mr. George Ndenjeshe
Fiscal Analyst III

Mr. James Macharia
Media Relations Officer I

Mr. Andrew Jumanne Shangarai
Principal Serjeant-at-Arms

Mr. Simon Ouko
Assistant Serjeant-at-Arms

Ms. Shamsa Abdi
Research Officer III

Ms. Nelly Ondieki
Research Officer III

Ms. Joyce Wachera
Hansard Officer III

Mr. Benson Muchiri
Audio Officer III

Ms. Ivy Mumbi
Intern

Mr. Alfas Mulunda
Intern

Mr. Ian Kinuthia
Intern

1.4.2 DEPARTMENTAL COMMITTEE ON AGRICULTURE AND LIVESTOCK

9. The Departmental Committee on Agriculture and Livestock 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 SUGAR INDUSTRY IN KENYA

2.1 INTRODUCTION

10. The sugar industry plays a significant role in supporting the economy and livelihoods of more than eight (8) million Kenyans. The industry is the socio-economic backbone of the sugarcane growing communities supporting about three hundred thousand out-grower farmers.

11. Commercial sugarcane farming is concentrated in the Western, Nyanza, Rift Valley and Coastal Regions and is currently being carried out in fifteen (15) counties. The cane distribution by county is as follows: Kakamega (19.9 %), Bungoma (17.7%), Kisumu (12.9%), Narok (8.3%), Busia (7.7%), Nandi (7.7%), Homabay (6.3%), Kericho (4.8%), Migori (4.6%), Trans-Nzoia (3.4%), Kwale (3.3%), Uasin Gishu (1.8%), Kisii (1.1%), Vihiga (0.3) and Siaya (0.2%).

12. The Kenya sugar industry comprises sixteen (16) milling factories with a capacity of 41,000 TCD. Five (5) mills are public owned with National Treasury as the single largest shareholder. The public mills are:
    i. Chemelil Sugar Company;
    ii. Miwani Sugar Company (in receivership);
    iii. Muhoroni Sugar Company (in receivership);
    iv. Nzoia Sugar Company; and
    v. South Nyanza Sugar Company.

13. In 2021, about 262,667 growers were engaged in sugarcane farming, with an average farm size of 0.8 hectares. The nucleus estates account for only 9% of the total cane land area, whereas the out-growers occupy 91% of the total cane land area. The table below shows the area under sugarcane per factory in Kenya.

Table 1: Area under sugarcane by factory (in Ha.)

FACTORY	2017	2018	2019	2020	2021
Chemelil	17,520	17,005	16,905	18,186	18,012
Muhoroni	15,014	13,850	13,184	13,775	15,282
Mumias	21,538	13,034	1,925	198	274
Nzoia	24,675	20,084	18,046	18,775	18,918
South Nyanza	13,226	11,597	10,113	8,959	8,803
Kibos	5,946	6,277	8,013	7,393	8,087
Soin	1,744	1,825	1,822	1,915	2,799
Butali	18,487	15,526	14,913	19,749	24,021
West Kenya	29,721	38,868	46,716	48,011	59,048
Miwani	3,651	4,017	1,938	1,900	1,615
Sukari	6,419	11,986	15,447	17,710	21,251
Transmara	11,347	14,958	15,075	15,308	16,980
Kwale	9,477	9,488	9,488	6,763	7,287
Olepito	4,949	7,942	8,875	9,013	9,612
Busia	7,501	15,943	14,978	12,858	11,017

FACTORY	2017	2018	2019	2020	2021
Total	**191,215**	**202,400**	**197,438**	**200,513**	**223,006**

Source: AFA-Sugar Directorate

14. Kenya has been a net importer of sugar since the mid1980s and the gap between production and demand has been widening over time. Kenya's annual consumption in 2022 stood at 1.11 million MT against a production of 0.79 million MT leading to importation of 0.32 million MT worth KSh. 28 billion. Annual production and imports are shown in the table below.

Table 2: Production, Imports and Exports of Sugar from 2018 to 2022 (000 MT)

Year	Production	Imports	Exports	Consumption
2018	491.1	284.2	2	997.9
2019	440.9	458.6	0.8	1039.7
2020	603.8	442.4	0.4	1072.4
2021	700.2	426.3	0.1	1104.4
2022	796.6	320.7	0.4	1116.9

Source: AFA, Sugar Directorate

15. The table below shows the sugar produced by factories in the country from the year 2017 to the year 2022.

Table 3: Sugar produced (bagged) per factory between 2017 and 2021 (in MT)

FACTORY	2017	2018	2019	2020	2021
Chemelil	11,951	14,598	2,863	24,328	21,681
Muhoroni	20,942	14,886	10,601	17,464	19,711
Mumias	13,575	4,768	-	-	-
Nzoia	29,394	28,195	12,582	26,977	21,015
SONY	35,060	40,149	12,573	13,908	32,786
Kibos	52,110	66,599	53,249	85,339	68,139
Soin					
Butali	47,053	65,292	53,577	87,227	79,787
West Kenya	74,770	107,350	136,305	151,802	188,512
Sukari	29,542	60,401	68,657	63,146	96,156
Transmara	42,025	67,040	72,011	78,761	107,233
Kwale	19,689	17,570	339	10,875	1,477
Olepito	-	4,249	8,043	11,933	15,741
Busia	-	-	10,135	31,978	48,003
TOTAL	**376,111**	**491,097**	**440,935**	**603,738**	**700,241**

Source: AFA-Sugar Directorate

16. The sector has for the longest time continued to face several challenges among them the high cost of production, high levels of indebtedness especially among public-owned mills, acute cane shortage, declining yields, inefficiencies in the value chains, delayed payment to cane farmers, inadequate research and extension, aging equipment, obsolete technology, illegal sugar imports, mismanagement of state-owned mills, reduced incomes to farmers and weak regulatory framework among others (Sugar Taskforce Report of 2019).

2.2 INTERVENTIONS AIMED AT REVIVING THE SUGAR SECTOR IN KENYA

17. In an effort to resolve the challenges bedeviling the sector, various efforts and interventions have been initiated by the government including debt restructuring and bailouts and policy reforms amongst others.

18. In the Cabinet meeting held on 14th October 2010, the Cabinet considered the recommendations submitted to it by the Deputy Prime Minister and Minister for Finance and the Minister for Agriculture on the measures to make the sugar companies competitive by 2012 and approved a number of recommendations including expediting the privatization of the five (5) sugar companies, restructuring the sugar companies' balance sheets by writing off debts owed to the GoK and the Kenya Sugar Board, writing off tax penalties, interests and writing off land rates and other related penalties.

19. Sessional Paper No. 12 of 2012 was laid before the National Assembly for approval on 6th December 2012 by the then Finance Minister Hon. Njeru Githae and approved a debt write-off of KSh. 33,780,465,838 for the five (5) sugar companies owed to GoK and KSB/CF and a write-off of tax penalties and interest estimated at KSh. 4 billion as at 30th June 2009.

20. The National Assembly in 2015 approved the privatization of state-owned sugar companies but the implementation process was never concluded as it was opposed by stakeholders.

21. In the FY 2015/16 Mumias Sugar Company was issued with Ksh. 2 billion for restructuring and settlement of payables. In the FY 2022/23, Nzoia Sugar Company was allocated KSh. 500 million to carry out factory maintenance and settle farmers' arrears.

PART THREE

3 THE TREASURY MEMORANDUM ON ACTION PLANS TO REVIVE AND COMMERCIALISE THE STATE-OWNED SUGAR COMPANIES

3.1 REFERRAL TO COMMITTEES

22. The Leader of the Majority Party, Hon. Kimani Ichung'wah, MGH, MP tabled the Treasury Memorandum on Action Plans to Revive and Commercialize State-Owned Sugar Companies on 22nd August 2023. The Speaker of the National Assembly directed that the Memorandum be referred to the Departmental Committees on Finance and National Planning; and that on Agriculture and Livestock for immediate consideration and reporting back to the House within two weeks.

3.2 PROPOSALS IN THE MEMORANDUM

23. The objective of the action plan is to create a competitive sector with the ability to withstand the withdrawal of COMESA safeguards. The focus will be on the modernization of sugar milling plants which will improve production and operational efficiency, enhance cane development in both nucleus estates and small-holder farms and improve cane sucrose content to between 13% and 14%.

24. The Memorandum proposes a leasing model that will bring on board private capital, expertise, modernization of sugar mills for efficient commercial operations and leasing of the nucleus estates and factory land to private investors.

3.2.1 CHALLENGES FACING THE PUBLIC-OWNED SUGAR MILLS AS IDENTIFIED BY THE MEMORANDUM

The public-owned sugar mills face several challenges including:

25. **Poor governance**: Seen through mismanagement of public resources, blotted workforce, non-adherence to procurement laws, dysfunctional organisational structures and inadequate capacity and requisite experience to turn around the institutions.

26. **Failure of institutional structures, processes and policies**: Ineffective research and development owing to funding challenges; ineffective extension services due to inadequate funding; expensive farm inputs; involvement of the government in the sugar sector and political interference; and cane poaching.

27. **Lack of capital and high debt:** Public mills owe a lot of money to farmers, suppliers of goods and services rendered, salary arrears, un-serviced loans, interest and taxes among others. The debt status of public mills is shown in the table below:

Table 4: Breakdown of debts in state-owned sugar mills

ITEM	CHEMELIL	SONY	NZOIA	MUHORONI	MIWANI	TOTAL
Farmers' arrears	263,017,939	865,853,677	269,606,265	316,651,523	-	1,715,129,404
Salary arrears	1,116,195,344	1,194,397,767	1,843,427,512	1,080,444,410	0	5,234,465,033

ITEM	CHEMELIL	SONY	NZOIA	MUHORONI	MIWANI	TOTAL
Taxes & Penalties	3,739,893,783	2,682,825,089	12,262,706,248	14,120,931,330	17,338,445,158	50,144,801,608
SDL	3,740,868,462	503,244,772	3,637,056,220	3,466,198,521	-	11,347,367,975
GoK Loans	-	888,122,168	43,429,720,791	6,223,114,853	3,890,122,859	54,431,080,671
Other Creditors	1,068,049,871	1,146,745,520	1,241,204,717	926,550,290	820,002,539	5,202,552,937
Total	**9,928,025,399**	**7,281,188,993**	**62,683,721,753**	**26,133,890,927**	**22,048,570,556**	**128,075,397,628**

Source: The National Treasury

28. **Aging plants, machinery, obsolete technologies and operational inefficiencies**: Public mills operate aging plants and equipment with obsolete technologies. This is made worse by the lack of annual maintenance of mills hence operate below fifty percent of their installed capacities.

3.2.2 OBJECTIVES OF THE ACTION PLANS

The proposed action plans aim at achieving the following objectives:

29. **Creation of a competitive sugar sector**: The Government intends to create a competitive sugar sector that can withstand the withdrawal of COMESA safeguards.

30. **Enhance the profitability of sugar farming**: The plans are aimed at increasing the incomes of sugarcane farmers to ensure the sustainability of the sector.

31. **Enhance productivity in the sugar sector**: By investing in modern milling plants that will enhance production efficiency and diversified product range; by increasing the tonnes of cane harvested per acre; increasing the sugar recovery rate from the current average of 12.5% to 6%-8% per tonne of cane; and increase the cane sucrose content to 13% to 14%.

32. **Achieve economies of scale**: Competitiveness shall be achieved by delivering economies of scale by ensuring an adequate supply of cane to meet optimal factory operations. Delivery of sugar at competitive prices will allow the sector to thrive even with the removal of COMESA safeguards.

3.2.3 PROPOSED STRATEGIC INTERVENTIONS

The following strategic interventions were proposed for corporate re-organisation and financial restructuring of public mills:

33. Bring on board private capital, expertise and modernisation of sugar mills for efficient commercial operations.

34. Enhance cane development in both nucleus estates and smallholder out-grower farms.

35. Address stakeholder and community sensitivities on permanent divestiture of land. This is to seek for utilization of nucleus estate lease proceeds to incentivize smallholder farmers to enhance production through payment of loyalty bonus and in community development projects by funding CSR projects.

36. Unbundling the nucleus estate land and the factory land. The factories shall be disposed off in compliance with existing procurement regulations and the successful investor shall be provided with land which they can lease and construct a modern factory.

37. Expedite leasing of the five (5) sugar companies to facilitate rehabilitation and expansion to enhance the competitiveness of the industry before lapsing of the COMESA sugar safeguards.

38. Achieve cane catchment of viable sizes hence the need for consolidation. This will be done by creating financially viable sugar companies, able to access adequate cane, considering the minimum viable size area of 29,914 hectares required to supply cane to one factory.

39. Retain NSC and SONY Sugar Company which have cane-growing areas of 49,862 hectares and 81,415 hectares respectively as they are.

40. CSCL and MUSCO which have cane-growing areas of 18,437 hectares and 22,134 hectares respectively to be merged to form one zone with a total cane-growing area of 40,571 hectares.

41. The decision on Miwani Sugar Company will be made once the ongoing court cases are determined.

42. Investors will be required to bid for both CSCL and MUSCO to facilitate a leasing arrangement for the two factories/zones merging. The table below shows the catchment areas before and after the merger.

Table 5: Possible catchment areas (Ha.)

FACTORY	BEFORE MERGER	AFTER MERGER
Chemelil	18,487	40,571
Muhoroni	22,134	
Miwani	9,143	9,143
Nzoia	49,862	49,862
Sony	31,415	31,415
TOTAL	**131,041**	**131,041**

Source: The National Treasury

43. Restructuring of the sugar companies' balance sheets by writing off monies owed to GoK, writing off tax penalties and interest and putting in place a payment plan for balances owed to farmers.

44. Regulation of factory zones to ensure the financial viability and future sustainability of the sugar companies by clearly defining each factory zone before inviting final bids for the leasing program and ensuring that the zones are complied with by all stakeholders.

45. Government to support smallholder cane farmers to develop the crop and enhance productivity.

46. Legal reforms in the sector by coming up with mechanisms to enhance efficient settlement of disputes efficiently to mitigate the numerous legal suits filed by sector players in court.

3.2.4 STATUS OF MUMIAS SUGAR COMPANY AND WAY FORWARD

47. The near collapse of Mumias Sugar Company has adversely affected the residents of Kakamega County where sugarcane is the main cash crop.

48. The Government of Kenya holds 306,000,000 shares in the Company out of 1,530,000,000 representing 20% while the other 80% of the shares are held by private shareholders. The company was listed at the Nairobi Securities Exchange in 2001 and constituted the top 20 most valuable companies up to 2014 when its performance deteriorated due to mismanagement.

49. The Company was placed under receivership by KCB Bank on 20th September 2019. The Board was dissolved and a consultancy firm, PVR Rao appointed to run its operations. CMA suspended the Company's shares from trading due to debts of KSh. 8.7 billion in line with Capital Markets Regulations.

50. The Government supports the leasing model adopted by KCB in a bid to turn around the Company by inviting the private sector to take up the operations of the Company. The paper seeks to implement the recommendations of the Sugar Industry Stakeholders' Taskforce Report of 2019 which recommended: Negotiation with banks and other creditors for the restructuring of other debts; and in cognizance of the fact that Mumias Sugar Company is no longer a public mill, it was recommended that a revitalization committee be appointed to work with the Board, County Government and other key stakeholders to identify and implement an effective restructuring plan.

3.2.5 BENEFITS OF THE PROPOSED LEASING MODEL

51. The benefits of the proposed leasing model include allowing for private sector participation without undertaking a permanent divesture process; making sugarcane profitable and sustainable to enhance the livelihood of farmers, employees and community; modernization of sugar mills to provide efficiency and hence profitability; development of the nucleus estate; generation of taxes; improve competitiveness and increased sugar production to meet domestic demands hence save on foreign exchange occasioned by imports; enhance product diversification through co-generation and ethanol production; cut public sector financing through private sector participation; and improve the business environment in Kenya.

3.2.6 REQUEST TO THE NATIONAL ASSEMBLY

The National Assembly is requested to consider and approve:

52. write-off of loans owed by the public sugar companies to GoK and KSB/CF amounting to KSh. 65,778,448,646 as at 30th June 2023 and any other accrued interest as at the date of approval.

53. write-off of taxes, penalties and interest as approved by Parliament amounting to KSh. 50,144,801,608 as at 30th June 2023 and any additional interest and penalties that have accrued since then.

54. the vacation of the privatization model approved by Parliament in 2015.

55. the leasing model for the five (5) public sugar mills (Nzioa Sugar Company, Chemelil Sugar Company, Miwani Sugar Company (in receivership), Muhoroni Sugar Company (in receivership) and South Nyanza Sugar Company).

3.3 LEGAL ANALYSIS

56. Privatization Act *(No. 2 of 2005)* provides for methods of privatization. Section 17 provides for privatization by the Privatization Commission where the Commission has the exclusive authority to manage and implement the privatization under a privatization programme formulated by the Commission.

57. Section 22 of the Act provides for privatization outside the programme of the Commission. Such a programme may be implemented and managed by the responsible public entity except where the privatization involves the transfer of a public entity's interests in a state corporation or other corporation, or any other privatization prescribed by regulation.

58. Section 23 of the Act provides that the Commission shall make a specific proposal for privatization to the Cabinet Secretary who shall present the proposal to the Cabinet for approval. The Cabinet Secretary then submits a report in the form of a Sessional Paper on a privatization proposal approved by the Cabinet to the National Assembly for consideration. Upon laying the report before the National Assembly, the report stands referred to the relevant departmental committee.

59. The Cabinet Secretary shall compile and submit a consolidated report to the National Assembly on the status of each approved privatization proposal not later than four months after the end of each financial year. Upon laying the report before the National Assembly it shall be referred to the relevant departmental committee.

60. Section 25 of the Act provides for the methods of privatization as follows: Public offering of shares; negotiated sales resulting from the exercise of pre-emptive rights; sale of assets, including liquidation; and any other method approved by the Cabinet in the approval of a specific privatization proposal.

PART FOUR

4 MEETING WITH STAKEHOLDERS TO CONSIDER THE TREASURY MEMORANDUM

61. In a bid to conduct public participation on the consideration of the Treasury Memorandum on Action Plans to Revive and Commercialise the State-Owned Sugar Companies, the Joint Committee invited stakeholders for meetings vide letters REF: NA/DDC/A&L/2023/052, NA/DDC/A&L/2023/053, NA/DDC/A&L/2023/054, NA/DDC/A&L/2023/055 and NA/DDC/A&L/2023/057. The Committee received submissions from the following stakeholders:

a. Members of County Assemblies
b. Hon. Walter Owino, MP
c. Hon. James K'oyoo, MP
d. Hon. John Makali, MP
e. Kenya National Federation of Sugarcane Farmers SONY Branch
f. Nzoia Sugar Company Out-growers Limited
g. Kenya National Federation of Sugarcane Farmers Chemelil Branch
h. Kenya National Federation of Sugarcane Farmers Miwani Branch
i. Sugar Campaign for Change
j. Kenya Sugarcane Growers Association
k. Kenya National Federation of Sugarcane Farmers Muhoroni Branch
l. Mumias Sugar Company Farmers
m. Kenya Union of Sugar Plantation and Allied Workers' Union
n. Mumias Sugar (2021) Limited
o. Kenya Commercial Bank Limited
p. SONY Sugar Company
q. Nzoia Sugar Company
r. Muhoroni Sugar Company (In Receivership)
s. Miwani Sugar Company (In Receivership)
t. Chemelil Sugar Company
u. Ministry of Agriculture and Livestock Development
v. The National Treasury
w. Kenya Revenue Authority
x. Hon. Emmanuel Wangwe, MP
y. Hon. John Waluke, MP
z. Mumias Out-growers Company (1998) Limited
aa. Sugar Research Institute.

62. The stakeholders submitted as follows:

4.1 MEMBERS OF COUNTY ASSEMBLY

In a meeting with the Committee held on Tuesday, 5th September 2023, the MCAs from Kisumu and Migori Counties submitted that:

63. All sugar companies in the Kisumu Region were on their knees and they would support the leasing process on condition that it would improve the companies, bring about new technologies that would lead to efficiency in sugar production, terms and conditions of leasing are set out clearly, management of the sugar companies given to qualified managers and not political appointees, Chemelil and Muhoroni Sugar Companies are not merged and farmers' arrears are paid.

64. There should be a link between the sugar companies and research institutions for access to good sugarcane varieties by farmers. Additionally, sugar importation should be discouraged to encourage local production because there is a lot of potential in the sugar industry. The process of sugar importation should be clear and open.

65. The court cases filed against Miwani Sugar Company need to be withdrawn as they have had a negative impact on the operations of the Company. In addition, the land owned by the Agricultural Development Corporation (ADC) that was given to Chemelil Sugar Company had been grabbed by prominent persons. This land needs to be returned to the Company.

66. They concluded by requesting that, Muhoroni and Miwani Sugar Companies similar to Nzoia Sugar Company, be assigned the National Youth Service (NYS) to provide security.

4.2 HON. WALTER OWINO, MP (SOUTH NYANZA SUGAR COMPANY)

In a meeting with the Joint Committee held on Tuesday, 5th September 2023, Hon. Walter Owino, Member of Parliament for Awendo Constituency informed the meeting that:

67. He had no problem with the leasing of the state-owned sugar companies. He however, stated that the following issues needed to be addressed: Farmers' arrears and employees' salary arrears should be paid before leasing is done; the factory and nucleus land need to be separated during the leasing; an explanation provided on why putting the companies under private investors will give better results; plans that the Government will put in place to encourage farmers to plant sugarcane given that they had abandoned the practice; when stakeholder engagement will be done and by whom; corporate social responsibilities that the investors will bring to the communities; involvement of leaders from the areas where the sugar companies are located in the negotiating process; and assurance that employees' jobs are safe.

68. Hon. Owino submitted that he will support the leasing process if: the lease period does not exceed twenty (20) years; the investor will install new and modern machinery; the investor commits to neither import sugar nor poach sugarcane from other millers; the nucleus land is not sold to the investor and the investor uses the land to grow sugarcane; and the investor should commit to undertake cane development.

4.3 HON. JAMES K'OYOO, MP (MIWANI, MUHORONI AND CHEMELIL SUGAR COMPANIES)

In a meeting with the Joint Committee held on Tuesday, 5th September 2023, Hon. James K'oyoo, Member of Parliament for Muhoroni Constituency submitted as follows:

69. He will support the leasing process as long as it is done transparently, that the investor installs ultra-modern machines in the sugar companies after the leasing process and representatives of the people are involved in the leasing process.

70. The court cases against Miwani Sugar Company need to be withdrawn and the Company land that was grabbed by prominent persons returned to the Company. Sugar-importing barons should be eliminated from the industry. Additionally, millers should not be involved in sugar importation.

4.4 HON. JOHN MAKALI, MP (NZOIA SUGAR COMPANY)

In a meeting with the Joint Committee held on Tuesday, 5th September 2023, Hon. John Makali, Member of Parliament for Kanduyi Constituency informed the meeting as follows:

71. Farmers who supply sugarcane to Nzoia Sugar Company had not been paid for the last ten (10) months while employees had gone without salaries for the last eleven (11) months. There was a bloated workforce of about seven thousand (7,000) employees out of whom three thousand (3,000) were casuals. The Company also experienced the following challenges: the Nzoia Sugar Company nucleus land was underutilised; there were governance issues at the Company; the machinery in the Company used obsolete technology (KSh. 700 million is used on maintenance of the factory annually); and cane poaching.

72. On the Treasury Memorandum, he supported debt write-off for the sugar Companies. He however did not support leasing of NSC and proposed that the Government should hand management of the Company to the County Government of Bungoma if unable to manage it. He was opposed to indigenous persons taking over the Company and proposed that management should be done by a management company as had been done before. He further observed that sugar companies should be given capital for revitalisation in addition to the proposals in the Memorandum.

73. He concluded that sugar importation should be done by the Kenya National Trading Corporation (KNTC) and millers.

4.5 KENYA NATIONAL FEDERATION OF SUGARCANE FARMERS (KNFSF) SONY BRANCH

In a meeting with the Committee held on Wednesday, 6th September 2023, Mr. Argwengs Adongo, the Branch Secretary proposed the following solutions to challenges experienced by state-owned sugar companies:

74. **Poor governance**: the Companies Act be amended to factor in the role of county governments, farmers who supply raw materials to the companies and their representation in the boards of management.

75. **Legal and regulatory frameworks that do not adequately respond to sugar industry needs**: the laws governing the sugar industry do not meet the industry's needs, encourage chaos in the industry and have hampered growth in the sugar industry. They proposed that an act of Parliament be put in place to give direction, instill discipline in the industry and put in place an independent regulatory body to oversight the industry.

76. **Debt write-off of KSh. 65,778,448,646**: supported the write-off so that the companies can start on a clean balance sheet.

77. **High level of indebtedness among the public-owned sugar companies**: supported the proposal by the National Treasury to bail out state-owned sugar companies by paying sugarcane farmers the outstanding arrears.

78. **Low sugarcane productivity and quality for the industry sustainability**: the following strategies need to be taken into consideration: promote cluster and block farming arrangements; facilitate the

provision of affordable credit; implement programmes to facilitate multiplication and distribution of certified seed cane; provide subsidies on farm inputs; improve cane varieties and use of appropriate agronomic practices; and facilitate effective research for the early maturing sugarcane. Laws need to be put in place to facilitate the above.

79. **Privatisation/leasing of state-owned sugar companies**: the fate of the SONY Sugar Company nucleus estate needs to be stated. The terms and conditions of the lease/privatisation should be laid bare and public participation done to all stakeholders before implementation of the same. They supported leasing but not privatisation.

4.6 NZOIA OUT-GROWERS COMPANY LIMITED

Mr. Christopher Sifuna, the Chairperson, appeared before the Committee on Wednesday, 6th September and submitted as follows:

80. Previously, one hectare of land used to produce 90 tonnes of sugarcane but this has been reduced to 40 tonnes due to the high cost of farm inputs, poor seed cane, high operational costs, harvest of young cane, no extension services and high transportation cost.

81. The Nzoia Outgrowers Company Limited was not able to service their loans borrowed from KSB/CF because farmers were unable to deliver cane to the factory as a result of the breakdown of machines at the factory, cane poaching, burned cane (lost cane worth 240 million during the 2017/18 post-election violence). The Company requested the loan write-off extended to out-grower institutions.

82. Mr. Sifuna observed that there is a need for bonuses to be paid when sugar prices go up to encourage sugarcane farming. It is also important for farmers to be paid advances because sugarcane takes long to mature.

83. Additionally, millers or farmer organisations should be allowed to import sugar when there is a deficit. Further, a regulatory framework that will bring discipline in the sugar industry, re-introduce KSB, re-introduce SDL, allow for research to come up with improved cane varieties, subsidize the price of farm inputs and encourage cane development needs to be enacted.

4.7 KENYA NATIONAL FEDERATION OF SUGARCANE FARMERS CHEMELIL BRANCH

The Branch Secretary, Mr. Caleb Ochieng' appeared before the Committee on Wednesday, 6th September 2023 and submitted that:

84. They were against the merger of Chemelil and Muhoroni Sugar Companies to form one zone because it would encourage monopoly in the region and kill competition. Competition in the region has resulted in improved services to farmers, prompt payment to farmers and good cane prices. They proposed that each of the factories be offered to a different investor with proven sugar milling and sugar industry experience.

85. They supported the regional zoning as follows: Central Region (Kisumu, Kericho and Nandi Counties); Upper Western Region (Bungoma, Kakamega, Transnzoia and Uasin Gishu Counties); Lower Western Region (Busia, Mumias and Siaya Counties); Southern Region (Homabay, Kisii, Migori and Narok Counties); and Coastal Region (Kwale, Lamu and Tana River Counties).

86. The Government should support cane farmers to mitigate against high input costs to increase cane productivity. This can be achieved by availing subsidized GoK fertilizer to sugarcane farmers through sugar millers.

87. The law should be amended to allow millers to retain the cess funds and release them to cess committees or use the funds to repair roads within their regions directly or outsource the services under the supervision of cess committees.

88. Millers operating in the same region should put in place as many weighbridges as possible so that they are close to farmers to reduce transport costs thus increasing farmers' income.

89. The SRI should work in collaboration with millers, farmer organisations and county governments to ensure the availability and modalities for increased adoption of appropriate and affordable planting materials. SRI should be funded by the government to aptly discharge their mandate.

90. Strengthen and implement the National Agricultural Extension Services Policy and ensure implementation of the Policy at the county level.

91. The leasing process should be advertised openly with a clear criterion for selection including the shareholding details.

4.8 KENYA NATIONAL FEDERATION OF SUGARCANE FARMERS MIWANI BRANCH

In a meeting with the Committee held on Wednesday, 6th September 2023, the Federation submitted as follows:

92. Miwani Sugar Company Limited has been having court cases from 2008 to date leading to no development. The cases need to be withdrawn to allow the Company's operations to run smoothly.

93. They supported the leasing of the Sugar Company as long as public participation is done, farmers' arrears and salary arrears are paid before the process begins, the nucleus land is not leased and the lessee is not a sugar factory owner in Kenya to encourage competition.

94. They opposed the merging of Muhoroni and Chemelil Sugar Companies because it would lead to a loss of jobs.

4.9 SUGAR CAMPAIGN FOR CHANGE

Hon. Saulo Busolo appeared before the committee on Wednesday, 6th September 2023 and submitted as follows:

95. It is highly anticipated that the entry of private sector players in the sugar sub-sector will transform the industry by injecting the necessary capital for stimulating the modernization of the factories, improving operational efficiencies, addressing technical expertise, and bringing on board effective management and good governance styles. These reforms will enhance the competitiveness of the industry while at the same time containing political patronage, official bureaucracy, corruption and wastage.

96. The traditional enforcement of arbitrary millers' designed contracts to reap economic benefits while exploiting the farmers with impunity, delay or non-harvesting of contracted sugarcane, delay or

non-payment for sugarcane delivered to the mills, excessive and compounded interest charges and arbitrary falsified deductions and poor weighbridge records have highly influenced farmer's economic development. SUCAM proposed that the Ministry should provide a timeline for the gazettement of the Sugar Regulations.

97. The philosophy behind the cane pricing system is to evolve a cane payment system that ensures equitable distribution of industry proceeds. The payment system should include a provision for an accurate assessment of sugarcane by weight or by sucrose content, setting up of a base price for standard sugar, dividing the proceeds to cover all costs (growers and milling) and distributing the balance according to each stakeholder's input. SUCAM proposed that before leasing state-owned sugar factories, it will be necessary that the government puts in place systems that will provide for equitable distribution of industry proceeds.

98. Productivity at the farm level requires a policy backup to ensure the achievement of optimal tonnage per acre. In this case, there needs to be a proposed framework for specific policies along the value of sugar import, seed cane policy, cane payment, insurance, cane transport policy and weighbridges. The policy decision should be guided by the principle of what is the greatest good for the greatest number and should go through public participation by the stakeholders and not by the bureaucrats.

99. When the out-grower institutions were active, the extension services were being provided, efficient cane production was undertaken and access to affordable farm input and services was witnessed. The current reporting channels and organizational structures portray a conflict between the apex body and the primary societies/companies in reaching for an audience with the regulatory body (AFA), government ministries and the millers.

100. They proposed the reintroduction of the SDL to be domiciled within the proposed KSB and not CF as proposed in the Committee Report. The contribution from imported sugar should be at the domestic value of the sugar imported and not the CIF value.

101. The economies of scale cannot be designed by a legal framework in a liberalized industry. Best practice is, that achieving economies of scale is gradual, designed by good management, and modern technology and innovation. Focus on increasing yield per acre to achieve the requirement of the specific mill hence their opposition to the merger of Muhoroni and Chemelil Sugar Companies.

102. An investigative audit to examine the reality of the debt of Miwani should be done because some of the debts are not genuine. In case of culpability, the culprits should be charged in a court of law for recovery of the public funds.

4.10 KENYA SUGARCANE GROWERS' ASSOCIATION

KESGA appeared before the committee on Wednesday, 6th September 2023 and submitted as follows:

103. The journey to commercialize government-owned sugar mills began more than 20 years ago and successive regimes have tried to implement this policy with zero success perhaps failing to understand the local dynamics and why these mills were put up in the first place. Government-owned factories have performed exemplarily, it is only on the profit-making front which was never part of the inception plan that they have failed miserably therefore in an ever-changing environment. It is necessary to come up with a diffraction framework to ensure the sustainability of these institutions.

104. They supported the leasing of state-owned sugar companies on the following conditions: The successful lessee should only be allowed to manage one mill; the lease shall only apply to the mill, there should be a different arrangement for the nucleus estate where counties will hold the land in trust for the people; the lease shall be for 20 years or be reviewed every five years after signing; all debts owed to workers, suppliers and farmers shall be paid in full before commencement of the process; members of the boards of the sugar mills shall be elected directly from farmers akin to the KTDA model; the process of leasing is open and above board; Muhoroni and Chemelil Sugar Companies are not merged; and the lessee undertakes to put up a training facility within the sugar mill and must also commit to taking 10 individuals from the local community for apprentice training every year.

105. Miwani Sugar Company was not among the Companies to be leased. The government needs to talk to the individuals who had lodged numerous court cases against the Company to drop them. All debts owed by out-grower companies should also be written off, the reason being that these are the structures that investors will rely on in boosting productivity at the farm level.

106. Zoning whether mill or regional has the potential of stifling growth and innovation. The government should address the falling farm productivity which stands at 35 tons per acre. The government should start to progressively exit the sugar industry by providing a timeline for the exit.

4.11 KENYA NATIONAL FEDERATION OF SUGARCANE FARMERS MUHORONI BRANCH

Mr. Jerim Odada, the Branch Chairman appeared before the Joint Committee on Wednesday, 6th September 2023 and submitted as follows:

107. Sugarcane farmers should be supported with cheap funding for cane development. This can be done through reinstatement of the Sugar Act which will put in place KSB. Additionally, licensing of new milling companies in the Muhoroni Zone should be restricted because it encourages cane poaching which has caused many problems in the sugar sector.

108. The Government should pay off debts and unsecured creditors and reinstate a board of management to manage the operations of MUSCO. The Company should be removed from receivership to regular management.

109. Supported leasing of the factory and its land to companies with track records in management and agriculture but not briefcase companies. They were however not in support of the merger of MUSCO and Chemelil Sugar Company.

4.12 MUMIAS SUGAR COMPANY FARMERS

Ms. Everlyne Wakhusama, a farmer, appeared before the Committee on Wednesday, 6th September 2023 and submitted as follows:

110. It is important to carry out sugar research to come up with cane varieties that mature in a shorter time and have high sucrose content. Farmers should be represented in KSB and have societies where their issues can be canvassed and addressed.

111. All costs related to sugarcane are borne by farmers including transportation which is not the case with other crops.

112.Establishment of sugar factories should be regulated. A factory should prove that they have raw materials before they are licensed.

4.13 KENYA UNION OF SUGAR PLANTATION AND ALLIED WORKERS' UNION

The Director of Communications, Mr. Lincoln Aveza appeared before the Joint Committee on Wednesday, 6th September 2023 and stated as follows:

113.Workers in state-owned sugar companies had not been paid their salaries for months (Chemelil Sugar Company for 53 months, NSC for 19 months and SONY for 15 months). In addition, retirees go home with unpaid salaries and no pension. Clarity should be given on how the arrears will be paid.

114.Most private sugar companies have poor working conditions and do not adhere to labor laws. Some have two payrolls, one for black people and the other for light-skinned people.

115.Management of the state-owned sugar companies that were responsible for the mismanagement of the companies should be investigated and brought to book.

116.Workers should be represented in the taskforce that will be in charge of the leasing process to take care of the interests of workers. The fate of workers should be made clear before the process begins and salary arrears paid before the commercialisation process begins. Additionally, a leasing model should be put in place.

117.Before licensing sugar companies, the government should ensure that the company has raw materials.

4.14 MUMIAS SUGAR (2021) LIMITED

In a meeting held on Wednesday, 6th September 2023, the General Manager, Mr. Rakesh Bvats made the following submission to the Joint Committee:

118.The Company has factory land of 117 Ha, nucleus land of 4295 Ha but the available area is 3,495 Ha and a crushing capacity of 8,500 TCDs.

119.The Company ceased operation in 2017 and Sarrai Group Limited was awarded the lease as the highest qualified bidder out of three (3) bidders on 22nd December 2021. When leasing the Company, the lessor (KCB) required the lessee (Sarrai Group Limited) to: Revive the Company (achieved but a lot more needs to be done); improve the financial well-being of farmers (12,570 farmers deliver cane and are paid weekly); creation of employment (880 direct employment and 2,500 indirect employment, 94% of the employees are old Mumias Sugar Company employees); and increase in government revenue (KSh. 433 million remitted to the government as VAT, Cess, PAYE, NHIF, NSSF e.t.c.).

120.Despite multiple court cases blocking the revival of Mumias Sugar Company, the Company has achieved the following: Developed over 2,139 acres of the nucleus estate; investment over KSh. 1.359 billion; KSh. 1.5 billion paid to farmers; over KSh. 433 million remitted to GoK; crushed 300,000 tonnes of cane in 9 months; produced 20,000 tonnes of sugar; and brought the Company back to the common man after seven (7) years.

COMMENTS ON THE TREASURY MEMORANDUM

121. Mr. Bvats observed that the Memorandum had taken care of most concerns in the sugar sector. He proposed the following additions to enrich the document:

a. **Implementation of Zones**: Globally, zoning is the backbone of the sugar industry. Zoning will give a sense of ownership to both farmers and millers, encourage millers to give farmers financial help, cane development by millers, better recovery hence higher revenue, reduction in sugar deficit, affordable and stable sugar prices and encourage CSR by millers.

b. **Protection of the Investor:** the business environment should be investor-friendly to give value to the money invested. Investors should be protected from court cases that may interfere with their working as is the case with Mumias Sugar Company (2021) Limited.

c. **Availability of Nucleus**: All millers should facilitate the production of good quality and good variety of cane to the farmers. This can be made possible through the availability of nucleus land. The state-owned mills should therefore retain the nucleus land.

d. **Reduction of the cost of farm inputs**: Kenya's input cost is the highest in East Africa and COMESA. Deliberate efforts need to be put in place to reduce the cost.

e. **Availability of Credit Facility**: The government should provide affordable and subsidized credit to the farmers.

f. **Investment in technology**: The Government should invest in technology that will facilitate farmers regarding their creditworthiness, availability of land, crop insurance and buying of agricultural inputs and agricultural machinery. This will also facilitate Government and government bodies to monitor and report as required.

g. **Payment to Farmers**: The Government and other regulatory bodies need to put in place a policy on the payment of farmers and its dispute resolution mechanism.

h. **Role of Government and their respective arms**: The Government of Kenya should put in place a legal framework for the sugar industry and ensure that it is implemented. They should also put in place a dispute resolution mechanism.

i. **Miller code of conduct**: It should be made clear to millers that sugar is their first priority and the by-products come after.

j. **Utilization of other indirect taxes**: Counties collect cess for infrastructure but are unable to develop the same. Cess should be collected as follows and deposited in an infrastructure fund as follows: 1% paid by farmer; 1% paid by miller; 1% cess by county governments; and 2% by KERRA.

k. **Other Important long-term measures**: Government through various agencies need to sign MOUs with global and local research bodies to improve seed cane varieties, to increase cane production per acre and sucrose content; millers should be incentivized by the government to encourage investment in infrastructure-related to sugar sector such as dams, irrigation channels, fertilizer, herbicides e.t.c. for increased sugar cane production; and special tax incentive to the millers should be introduced for millers to invest in by-products such as ethanol, power generation, bio- fertilizer, paper and refined sugar (which can be produced locally).

4.15 KENYA COMMERCIAL BANK (KCB) LIMITED

In a meeting with the Joint Committee held on Wednesday, 6th September 2023, Mr. Paul Russo, the CEO informed the meeting as follows:

122. He supported the proposals in the Treasury Memorandum because KCB had taken the same approach with Mumias Sugar Company to recover their loans. He observed that leasing is a perfect option because it brings onboard competencies that can turn around the fortunes of a company. A company that has a track record for social good should be engaged, the financial status of the company should also be taken into account and most importantly their ability to get working capital. He added that stakeholder engagement should be done during the leasing process and policy put in place for predictability.

123. In conclusion, he stated that he was ready and willing to work with the government to operationalize the outcome of the Treasury Memorandum.

4.16 SOUTH NYANZA SUGAR COMPANY LIMITED

The Managing Director, Mr. Stephen Ligawa, appeared before the Joint Committee on Wednesday, 6th September 2023 and submitted as follows:

124. SONY Sugar Company Limited started milling in 1979, with an installed capacity of 2,000 TCD which was gradually expanded to the current capacity of 3,000 TCD. The Company has a nucleus estate of 2,400 Ha and an out-growers zone of 20,000 Ha made up of more than 50,000 farmers.

125. To improve performance, the Company undertook comprehensive factory maintenance in June/August 2021 and November/December 2022 which has enabled the Company to operate fairly well at a recovery ratio of 10%. Before May 2020, the Company did not carry out maintenance with the last such exercise having been done in April/May 2015.

126. This compromised the Company's performance resulting in cash flow constraints leading to the accumulation of pending bills amounting to KSh. 8,159,634,377.39 as at 30th June 2023 broken down into: Farmers' arrears KSh. 1,096,938,999.98; salary arrears and other emoluments KSh. 1,194,397,767.62; Taxes and penalties KSh. 3,059,764,218; cess, land rent and rates KSh. 85,652,759.41, SDL KSh. 291,179,534.21, CF loans KSh. 503,244,772; Government loans KSh. 891,989,972.39; and other creditors KSh. 1,034,375,500.06.

127. The current management is capable of addressing the pending bills if the challenge brought about by the cane shortage is addressed. The current cane shortage is as a result of some private millers operating without having developed cane, thereby relying on cane poaching to sustain their operations. SONY Sugar has lost over KSh. 4 billion in investment in cane development due to cane poaching compounding to the current state of affairs.

COMMENTS ON THE TREASURY MEMORANDUM

128. Mr. Ligawa commented as follows on the challenges facing the public-owned sugar mills: Politicization of the boards of directors should be added to the list because it has impacted negatively on service delivery due to lack of capacity and requisite experience to turn around the companies; failure in institutional structures, processes and policy to address issues in the sugar industry can be addressed by restoring KSB, SDL and SDF; and aging plants, machinery, obsolete technologies and operational inefficiencies can be addressed through regular annual planned maintenance and preventive weekly maintenance schedules to sustain efficiencies at recommended levels.

129. On the challenges of government bureaucracy in running commercial enterprises, Mr. Ligawa averred that the government needs to reduce its role in the running of commercial entities hence their support for the leasing of state-owned sugar companies to private investors.

130. Regarding the objectives of the Action Plan, he submitted that: A legal framework should be put in place to provide for a level playing field for millers to create a competitive sugar sector; rehabilitation and modernization of investment and diversification of revenue streams should be done to enhance profitability of sugar farming; and synchronization of milling capacity and establishment of block farming by enforcing the Land use Policy to achieve economies of scale.

131. Regarding the proposed strategic interventions, Mr. Ligawa submitted that they did not agree with strategic interventions No. (iii) and (iv) because divestiture of the nucleus estate will make the Company vulnerable to external factors. The nucleus estate serves as a bulking site for newly introduced varieties, a buffer zone for the company and compliments what comes from out-growers. It serves as the Company's farm where trials can be carried out and can also be used as collateral for loans. The community is involved in its cane husbandry and maintenance activities which gives them a source of income.

4.17 NZOIA SUGAR COMPANY LIMITED

CPA. Ezron Kotut, the Ag. Managing Director appeared before the Joint Committee on Wednesday, 6th September 2023 and submitted as follows:

132. NSC Limited was established in 1975 and started operations in August 1978. It was formed under the Companies Act Cap. 486 of the Laws of Kenya. The Company is owned by the GoK with a shareholding of 97.94%, Fives Cail with a shareholding of 1.13 % shares and Kenya Development Corporation formerly IDB with a shareholding of 0.93%.

133. NSC has a nucleus estate of 3,600 Ha equivalent to 10,000 acres and a factory with an installed milling capacity of 3,000 TCDs. NSC serves approximately 45,000 sugarcane farmers in Bungoma and neighboring counties. The Company has a total workforce of over 2,500 employees.

134. Since inception, the Company has been managed by four entities, namely; FCB & Technisure from 7th October 1975 to 3rd January 1978, Government of Kenya from January 1978 to 11th January 1999, F.C. Schaffer & Associates between 12th January 1999 and 31st August 2003. Management of the Company reverted to GoK on 1st September 2003.

135. The company is faced with many challenges, key among them being:

a. **Accumulation of outstanding debt**: The company accumulated a total of KSh. 62.2 billion as pending bills as at 30th June 2023, a bulk of which (KSh. 59.3 B) comprises Kenya government-guaranteed loans, interests, principal taxes and penalties; farmers' arrears of KSh. 269 million; employee arrears and related costs of KSh. 2 billion; and suppliers KSh. 788 million among others.

b. **Cane shortage**: The Company targets to plant 1,700 Ha (4,250 acres) of cane in the nucleus estate and 1,000 Ha (2,500) acres of cane from out-growers in the current financial year.

c. **Factory inefficiencies**: The Government provided KSh. 216 million for factory maintenance in the last financial year which was 64% of their requirement. The factory had an average TC: TS of 14.67 against a benchmark average of 10 which led to losses.

d. **Staff salary arrears**: The salary arrears for staff stood at KSh. 1.9 billion. The accumulation arose from March 2019 to February 2020 when the Company ran out of cane and the factory broke down. The Company was paying full salaries from August 2022 but the situation changed in February 2023 when NSC began making part payments. The arrears have contributed to low staff morale.

COMMENTS ON THE TREASURY MEMORANDUM

136. NSC proposed that the following strategies should be included in the proposed strategic interventions:

a. Zoning be clearly defined (catchment area) and the regulator empowered to enforce the regulations.
b. Empower and enhance collaboration between the Sugar Research Institute and sugar millers in research to develop better yielding and early maturing cane varieties.
c. Enhance extension services to farmers: The millers and respective county governments in cane growing regions to partner and increase their capacity in offering extension services.
d. Sugar to be classified as a food commodity and not as an industrial commodity and the Government is to waive some taxes and levies on locally produced sugar. Factory spares, equipment and machinery should be exempted from payment of duty.
e. Ensuring the availability of affordable certified seed cane to farmers, affordable credit and subsidized prices of farm inputs.
f. Cane development to improve on yields and diversification to include animal feeds, organic fertilizer, charcoal briquets, chipboards, soya beans and soya bean products.
g. The unbundling of the nucleus estate land and factory land, shall also include the unbundling of public utilities such as schools and hospitals and other social amenities like stadiums.
h. In cases where there will be a sugar deficit in the country, government millers to be apportioned sugar import quotas based on their production capacity.
i. The leasing model to ensure the continued operation of current factories and provide a clear transition period as the modern factories are constructed, taking into consideration the welfare of existing employees.
j. Restructuring of the sugar companies balance sheets to include: A payment plan for balances owed to employees of Nzoia Sugar Company as salary arrears and other emoluments amounting to KSh. 1,843,427,512 be worked out by the Ministry of Agriculture & Livestock Development and the National Treasury.

k. A payment plan for balances owed to other creditors of NSC amounting to KSh. 1,241,204,717 be worked out by the Ministry of Agriculture & Livestock Development and the National Treasury.

4.18 MUHORONI SUGAR COMPANY LIMITED (IN RECEIVERSHIP)

In a meeting with the Joint Committee held on Wednesday, 6th September 2023, Mr. Harun Kirui, the Joint Receiver Manager informed the meeting as follows:

137. MUSCO was incorporated in 1964 under an Act of Parliament Cap. 441 and started operations in 1966 with an initial factory capacity of 800 TCD. The milling capacity was first expanded to 1,800 TCD in 1978 and further to 2,200 TCD in 1990.

138. The total size of the Company's land is 2,002 Ha of which 1,600 Ha coverage is the Nucleus Estate. The Company is owned by the GoK through ADC with a shareholding of 74.17% and the Development Bank of Kenya with a shareholding of 8.61%. Private shareholders include UKETA Limited with a shareholding of 16.86% and other private shareholders with a shareholding of 0.36%.

139. The Company was placed under joint receivership in March 2001 by the then Kenya Sugar Board (now AFA) and NBK. The NBK has since been paid off hence AFA remains the sole debenture holder. The GOK and the debenture holder (AFA) have supported the Company's operations through refinancing loans, accruing interests and penalties to the tune of KSh. 9.7 billion before and during receivership with the hope that it will be turned around to profitability.

140. The Company has experienced several challenges among them:

a. **High debt portfolio:** As at 30th June 2023, MUSCO had a total debt of KSh. 26,133,890,927 made up of: KSh. 316,651,523 for farmers' arrears; KSh. 926,550,290 for general suppliers' dues; KSh. 1,080,444,410 for salary arrears and other emoluments; KSh. 14,120,931,330 as unpaid taxes (interest and penalties); KSh. 6,223,114,853 for GoK loans; and KSh. 3,466,198,521 as AFA/CF loans (principal and interest). KSh. 23,234,523,291 of the debt was accrued during the pre-receivership period while KSh. 2,899,367,636 was accrued during the post-receivership period.

b. **Inadequate factory maintenance**: As a result of the financial challenges, the Company has not been in a position to carry out scheduled factory rehabilitation. This has adversely affected the operational efficiency of the factory.

c. **Low cane supply**: There has been minimal cane development and maintenance due to a lack of funds at a time when the industry's milling capacity has tremendously increased. Consequently, cane demand in the region and the industry has far outstripped supply, leading to cane poaching and harvesting of immature cane. In addition, delayed payment to farmers has further aggravated cane development and maintenance at the farm level.

d. Lack of adequate policies and regulations in the sugar sector led to acute cane shortage, unregulated setting up of weighbridges, harvesting of underage cane, cane poaching, lack of farmer support in cane development and unregulated importation of sugar.

e. **Land Disputes**: encroachment of the company nucleus estate by the Koguta community who have been occupying about 454 acres of the nucleus estate as registered squatters since the 1960s.

COMMENTS ON THE TREASURY MEMORANDUM

141.MUSCO supported the Government's action plans to revive and commercialize the state-owned sugar companies. They requested the Joint Committee to consider the following proposals to enrich the process:

a. Approve the debt write-offs on GOK loans, interest and penalties as well as taxes, interests and penalties as at 30th June 2023 as recommended by the Cabinet.
b. Settlement of farmer's arrears amounting to KSh. 316,651,523, employees' salary arrears amounting to KSh. 1,080,444,410 and creditors amounting to KSh. 926,550,290 before the leasing process. This is necessary to avoid possible litigations that may impede the proposed leasing process. There is also a need for a smooth transition process that accommodates the concerns of the current workforce.
c. Enforce individual factory zoning to encourage cane development and prevent cane poaching.
d. The National Assembly to fast-track the Sugar Bill, 2022 and Sugar Industry Regulations to enhance development and order in the sugar sector.
e. Provide support to enhance cane development through farmer support and explore untouched areas estimated at 9,000 Ha for cane growing, and improve productivity thus no need to merge Muhoroni Sugar and Chemelil Sugar factories.
f. Consider the merger of MUSCO and Agro-Chemical and Food Company (currently listed for privatization). An existing distillery and ethanol plant which guarantees back-end diversification and sustainability for both institutions. The two companies used to be joint before.

4.19 MIWANI SUGAR COMPANY LIMITED (IN RECEIVERSHIP)

Mr. Harun Kirui, the Joint Receiver Manager appeared before the Committee on Wednesday, 6th September 2023 and submitted as follows:

142.Miwani Sugar Company is wholly owned by the Government of Kenya. Factory milling operations ceased in the year 2000 and in 2001, it was placed under receivership by the former Kenya Sugar Board (now AFA) which is the current sole debenture holder.

143.The company owns land measuring about 9,394 acres and 0.500 acres and which comprise the nucleus estate and factory of Miwani Sugar Company (1989) Limited respectively. The last valuation of the Company done in 2016 estimated the value of plant and machinery as KSh. 688,000,000 and land acreage of 9,394 acres at KSh. 2,200,000,000.

144.The company has a labour force of one hundred and two (102) employees mainly comprising of security personnel. The Company provides both direct and indirect employment to over two thousand (2,000) households.

145.Primary operations involve cane development within the Company's nucleus estate (the Company supplies an average of 54,000 MT of sugarcane for milling per year) and safeguarding its assets. The plant and machinery, encompassing milling, distillery, and a relatively new refinery, have predominantly remained inactive for 21 years, resulting in their deterioration and obsolescence.

146. The Company is faced with the following challenges:

a. **High debt portfolio:** As at 30th June 2023, the Company had total debt of KSh. 22,048,570,556 comprising of: creditors/suppliers' dues of KSh. 820,002,539; unpaid taxes (principal, interest and penalties) of KSh. 17,338,445,158; GoK loans (National Treasury and AFA/CF of KSh. 3,890,122,859 (KSh. 1,814,628,175 CF and KSh. 2,075,494,684 GoK).

b. **The Miwani land dispute:** There has been a protracted legal battle over the ownership of the Miwani land. The case is currently at the Court of Appeal and the appeal is supported by AFA and the Office of the Attorney General.

147. The current activities conducted in the company are cane development and tree planting:

a. **Cane development and maintenance:** The Company currently has 964.32 acres under cane at various stages of development. There is a need to accelerate cane development in the nucleus estate to improve the financial resources of the Company to meet its obligations including payment of the debenture holder loans.

b. **Tree planting:** The company has established a tree nursery and is engaged in tree planting and supplying seedlings to the locals.

COMMENTS ON THE TREASURY MEMORANDUM

148. The management of Miwani Sugar Company supported the Government's Action Plans to Revive and Commercialize the State-Owned Sugar Companies. They noted that Miwani Sugar Company had been excluded from the proposed leasing programme because of the on-going court cases and a decision on the Company will be made once the on-going court cases are determined. They requested the Committees to consider the following proposals:

a. Approve the debt write-offs on Miwani Sugar Company, GOK loans, interest and penalties as well as taxes, interests and penalties as at 30th June 2023 as recommended by the Cabinet.
b. Settlement of creditors (pre- and post-receivership) amounting to KSh. 820,002,539. This is necessary to avoid possible litigations that may impede the proposed leasing process.
c. The National Assembly is to fast-track the Sugar Bill, 2022 and Sugar Industry Regulations to enhance development and bring order in the sugar sector.
d. There is a need to expedite the on-going Miwani land case to release this very important and high-value asset of the Government of Kenya to enhance cane development and sugar production.

4.20 CHEMELIL SUGAR COMPANY

In a meeting with the Committee held on Thursday, 7th September 2023, Ms. Jacqueline Kotonya, the Interim Managing Director submitted as follows:

149. CSCL is located along the Awasi-Nandi Hills Road in Kisumu County. It is a State Corporation and was established in 1965. In 1974, the Company became a parastatal. The Company's shareholding is as follows: Government of Kenya through the Agricultural Development Corporation 96.21%, Development Bank of Kenya 1.42%, Minerva Holdings 1.42% and Kenya Shell (Vivo Energy) 0.95%.

150. The Company has a nucleus estate that covers 2,772 hectares of land and is surrounded by out-grower farms with a total cane-able land of approximately 20,759 hectares in Nyando, Tinderet and Nandi South Sub-Counties. The factory draws cane from Kisumu and Nandi counties, with 85% of the cane coming from the out-grower farms and 15% from the Company's nucleus estate.

151. CSCL's milling capacity is 3000 TCD and the Company produces mill brown sugar. The factory's performance steadily declined in the year 2017 majorly due to lack of adequate funds to carry out annual maintenance of the factory. The dismal performance, coupled with intermittent periods of severe cane shortage in the years 2017, 2018, 2019 and part of 2020 has made it increasingly difficult for the company to meet its financial obligations accruing to arrears.

152. In the year 2022, factory operations were suspended for 5 months due to a decline in performance to facilitate undertaking strategic annual maintenance of the plant and key online equipment. The Factory shut down for maintenance from 8th April 2022 to 20th August 2022 with milling operations resuming on 21st August 2022.

153. The Company's socio-economic programmes have impacted on cane transporters, cane harvesters, contractors and members of the local community engaged in diverse economic activities within the Chemelil cane catchment zone. The Company has infrastructure such as schools and a health center that support both employees and the surrounding community.

154. CSCL is faced with the following challenges:

a. **High debt portfolio:** Intermittent milling caused by the poor state of the factory and cane shortage resulted in low cash flow and thus low revenue generation which led to accrual of debts amounting to KSh. 9,928,025,399 broken down into: Farmers' arrears KSh. 263,017,939; salary arrears and other emoluments KSh. 1,116,195,344; taxes and penalties KSh. 3,739,893,783; SDL KSh. 3,740,868,462; and other creditors KSh. 1,068,049,871.

b. **Inadequate maintenance of the factory:** Sugar factories are highly mechanized and require regular annual maintenance. As a sugar practice, a recommended six weeks stoppage every year is needed for overhaul maintenance and at the same time give room for development. This used to take place during the heavy rain months. CSCL has not been able to maintain the practice due to low revenue generation.

c. **Lack of enforcement of regulatory framework for the sugar industry:** There has been a lack of enforcement of laws governing the sugar industry which has led to malpractice of harvesting immature cane, lack of zoning leading to cane poaching, an increase of illegal sugar imports and uncontrolled establishment of cane weighing and buying centers.

d. **Insufficient milling cane:** Currently, CSCL has shut down factory milling operations due to cane shortage. This has been as a result of continued insufficient support of cane development arising from a lack of enforcement of the regulatory framework of the sugar industry.

e. **Dilapidated sugar feeder roads:** In the initial arrangement, the sugar feeder roads were developed by both the state-owned millers and defunct local authorities using cess funds. The current arrangement of county governments handling sugar feeder roads cess funds (1% of the cost of cane) has not worked for the sugar industry.

COMMENTS ON THE TREASURY MEMORANDUM

155. The Company's management made the following recommendations with regard to the Treasury Memorandum:

a. Whilst they supported the GoK action plans to commercialize the state-owned sugar companies, they sought clarification on the leasing model to facilitate a smooth transition. CSCL proposed the establishment of a Leasing Commission to establish a leasing framework with input from stakeholders.
b. They sought for retention of the nucleus estate as a source of milling cane for the Company. It will also be used for seed cane bulking, research and development including demo plots. It is also not clear how an already leased factory will again have its plant disposed of as per existing procurement laws. They recommended the injection of funds to modernize the existing factories.
c. The cane growing area available to Chemelil Sugar Company is 20,236.1 Ha which is inclusive of the Company's nucleus estate. Further, the Company has existing areas in Nyakach Sub-County and Ahero areas in Nyando Sub-County that present massive opportunities for expansion of cane able area to over 29,000 Ha thus no need for a merger of the two companies. This area will be enough to support expansion to a 4000 TCD milling capacity.
d. Employee's salary arrears of KSh. 1,116,195,344 should be included in the restructuring of the Company's balance sheet.
e. The National Assembly to fast-track the enactment of the Sugar Bill, 2022 into law to curb malpractice (such as cane poaching and harvesting of immature cane) in the sugar industry.

4.21 MINISTRY OF AGRICULTURE AND LIVESTOCK DEVELOPMENT (MOALD)

Mr. Kello Harsama, Principal Secretary, State Department for Crop Development appeared before the Committee on Thursday, 7th September 2023 and submitted as follows:

156. The sugar industry plays a vital role in the Kenyan economy. The sub-sector contributes significantly to food security, the creation of employment and is a source of livelihood for more than 8 million people. The sub-sector has the potential to produce enough sugar for domestic use and surplus for export. However, the sector has not performed to its potential partly due to the poor performance of the state-owned sugar mills.

157. The State-owned Sugar Companies have a combined crushing capacity of 13,200 TCD but only contributed a paltry 12% of all sugar produced in 2022. Their poor performance is mainly attributed to, a high debt portfolio, lack of capital for investment, poorly maintained equipment leading to frequent breakdowns and milling inefficiencies, poor governance and cane poaching.

158. Muhoroni and Miwani are currently under receivership due to the loans owed to the KSB. The proposed revitalization strategy seeks to achieve the following: Make the sugar industry competitive; make sugarcane farming profitable; and increase sugar production.

159. The proposed revitalization strategy will be achieved through: Institutional and legislative reforms like leasing of the state-owned sugar companies to private investors who will inject capital and expertise and establishment of the regulatory framework to bring harmony to the sugar industry; Financial restructuring through debt write-off to attract investors and tax and penalty write-off; Increase funding for research; Reduce cost of inputs; and Improve extension services delivery.

COMMENTS ON THE TREASURY MEMORANDUM

160. The State Department for Crop Development supported the Memorandum and made the following observations on the Memorandum:

a. Issue of permanent divesture mitigated through leasing. Lease the nucleus estate land to private investors for cane development only.
b. Lease proceeds are to be utilized for payment of outstanding debts (salary arrears, statutory deductions) not written off. Notably, the outstanding debts are not catered for in the proposed action plan.
c. The strategic investor injects capital to develop or modernize and operate the sugar company.
d. The individual sugar mills should be leased separately.
e. On the Chemilil Sugar Company and Muhoroni Sugar Company merger, the State Department proposed that the mills could operate viably as independent entities and hence should be leased separately.
f. Payment plans to be developed to address the debts not catered for in the revival action plan.
g. Supports the proposal to have legal reforms in the sector. The government to come up with mechanisms to enhance the efficient settlement of disputes to mitigate the numerous legal suits. Re-establish the Sugar Arbitration Tribunal.
h. Government to support smallholder cane farmers to develop the crop and enhance productivity.
i. Enforce zoning to incentivize investors in the sector to bring order and spur production. Expedite the Regulations to enforce zoning.
j. The Ministry supported the proposal for the appointment of a revitalization committee to work with the Board, County Government of Kakamega and other key stakeholders to restructure and operationalize Mumias Sugar Company.

4.22 THE NATIONAL TREASURY AND ECONOMIC PLANNING

In a meeting held on Thursday, 7th September 2023, Mr. Lawrence Kibet, Director General for Public Investments and Portfolio Management informed the Joint Committee as follows:

161. There have been previous efforts to revive the public mills. They are Sessional Paper No. 12 of (2012) which approved the restructuring of balance sheets through write-off of debts (KSh. 33,780,465,838) and tax penalties & interest (KSh. 4 billion); the National Assembly approved the privatization of state-owned sugar companies in 2015 but this stalled due to opposition by stakeholders because of sensitivities around land; and Sugar Industry Stakeholders Taskforce Report (2019) with strategic recommendations for sugar sector reforms.

162. The five state-owned companies have faced several challenges which include poor governance, failure in institutional structures, processes and policy, lack of capital & high debt (debts to farmers, suppliers, unserviced loans), aging plants, machinery, obsolete technologies & operational inefficiencies and Government bureaucracy in running commercial enterprises.

163. The National Treasury submitted that the Government of Kenya has 20% shareholding at Mumias Sugar Company and private shareholders have a shareholding of 80% and therefore not a public mill. The Company was placed under receivership by KCB in 2019, with PVR Rao appointed to manage its operations. CMA suspended trading of the Company's shares in 2019. The Company has KSh. 8.7 billion debts owed to the Government of Kenya.

164. The GoK, via BETA, aims to turn around Mumias through the leasing model adopted by KCB. Adopt the recommendations of the Sugar Industry Stakeholders' Taskforce Report (2019) on corporate re-organization and financial restructuring: Negotiate with banks and creditors for restructuring of debts; and put in place a revitalization committee to work with the Board, County Government and other key stakeholders to identify and implement an effective restructuring plan.

165. The Treasury Memorandum on Action Plans to Revive and Commercialise the State-Owned Sugar Companies proposes the following interventions:

a. Onboard private capital, expertise & modernization of sugar mills.
b. Enhance cane development, both nucleus & out-growers.
c. Address stakeholder sensitivities on land issues: No permanent divestiture of land; and use proceeds from the lease of nucleus land to incentivize farmers.
d. Unbundling the nucleus estate land and factory land: Disposal of existing run-down factories; and investors to lease land and construct modern factories.
e. Leasing the five (5) state-owned mills to facilitate rehabilitation & expansion.
f. Restructuring of sugar companies balance sheets: Write-off of loans owed to GoK and KSB/CF (KSh. 65,778,448,646 as at 30th June 2023) and accrued interest as at date of approval; write-off of tax penalties and interest (KSh. 50,144,801,608 as at 30th June 2023) and any accrued interest and penalties; and payment plan for balances owed to farmers (KSh. 1,715,129,404 (MOALD and NT&EP).
g. Regulation of factory zones to ensure financial viability and future sustainability and ensure compliance.
h. GoK supports farmers in developing the cane and enhancing productivity.
i. Legal Reforms: GoK to develop mechanisms for efficient settlement of disputes.
j. Merge Chemelil and Muhoroni Sugar Companies to achieve cane catchment of viable sizes (considering the minimum viable area of 29,914 Ha).

4.23 THE KENYA REVENUE AUTHORITY

The Commissioner General, Mr. Humprey Wattanga, appeared before the Committee on Thursday, 7th September 2023 informed the meeting as follows:

166. State-owned sugar mills are generally compliant and up to date in VAT and PAYE return filing. However, Corporation tax returns are always filed late and often on intervention by the Tax Service Office. The delays are attributed to the delayed conclusion of the financial statement audit. The table below shows the filing of tax returns:

Table 6: Filing of tax returns by the sugar companies

S/NO.	PIN	NAME	VAT	PAYE	CORPORATION TAX
1.	P0006092989	South Nyanza Sugar Company Limited	Up to date	Up to date	Up to date
2.	P000626467G	Chemelil Sugar Company Limited	Up to date	Up to date	Not up-to-date returns for 2021 and 2022 not filed
3.	P000626335V	Muhoroni Sugar Company Limited	Up to date	Up to date	Returns for years 2021 and 2022 not filed

4.	P000608568K	Nzoia Sugar Company Limited	Up to date	Up to date	Return for years 2019 to 2022 not filed
5.	P051091500D	Miwani Sugar Company Limited	Up to date	Up to date	The last return filed was for FY 2018
6.	P000626584I	Mumias Sugar Company Limited	Up to date	Up to date	The last return filed was for FY 2017

Source: Kenya Revenue Authority

167. The table below shows the breakdown of taxes due for payment

Table 7: Breakdown of taxes due for payment

PIN	TAXPAYER	PRINCIPAL TAX (KSH.)	PENALTY (KSH.)	INTEREST (KSH.)	TOTAL AMOUNT PAYABLE (KSH.)	REMARKS
P000626584I	Mumias Sugar Company Limited	7,133,719,635	4,342,635,503	8,764,330,734	20,240,685,872	KRA has registered its interest to the registrar
P000608568K	Nzoia Sugar Company Limited	4,186,369,531	57,188,128	2,899,356,655	7,142,914,315	The taxpayer defaulted on the payment plan of KSh. 5 M per month
P000626467G	Chemelil Sugar Company Limited	1,713,059,990	70,272	1,083,363,861	2,796,494,123	The cane informed KRA of the suspension of milling for 3 months via a letter dated 11.8.23
P000626335V	Muhoroni Sugar Company Limited	2,005,382,927	84,839,507	1,148,481,022	3,238,703,456	The taxpayer defaulted the payment plan of KSh. 5 M per month citing cashflow issues
P051091500D	Miwani Sugar Company Limited	678,236	836,400	591,585	2,106,221	For Corporation Tax, the taxpayer has carried forward losses amounting to KSh. 358,087,024
P0006092989	South Nyanza Sugar Company Limited	2,020,718,335	88,283,410	1,089,778,547	3,198,780,292	The taxpayer is under a payment plan of KSh. 30 M per month

PIN	TAXPAYER	PRINCIPAL TAX (KSH.)	PENALTY (KSH.)	INTEREST (KSH.)	TOTAL AMOUNT PAYABLE (KSH.)	REMARKS
TOTAL		17,059,928,654	4,573,853,221	14,985,902,404	36,619,684,278	

Source: Kenya Revenue Authority

168. Article 210 of the Constitution provides that taxes can only be waived by law. KRA can only waive taxes pursuant to the law. Previously, Section 37 of the Tax Procedures Act, 2015 provided for relief because of doubt or difficulty in recovery of tax. This provision gave the Commissioner powers with the prior approval of the CS for the National Treasury and Economic Planning to write off debts where the Commissioner determines that: It may be impossible to recover unpaid tax; there is undue difficulty or expense in the recovery of unpaid tax; there is hardship or inequality in relation to the recovery of unpaid tax; or there is any other reason occasioning inability to recover the unpaid tax. This provision was however repealed vide the Finance Act, 2023 effective 1st July 2023 and as such, the Commissioner has no power to write off tax debts.

169. Similarly, section 87(7) of the TPA provided that the Commissioner may upon an application by a taxpayer or on his own motion remit in whole or in part, any penalty or interest payable by a person if satisfied that the remission is because of: Consideration of hardship or equity; or impossibility or undue difficulty or expense of recovery of the tax. The aforementioned provision was also deleted by the Finance Act, 2023 effective 1st July 2023 and as such, the Commissioner has no power to waive any tax penalties or interest as was previously the case.

170. The Finance Act, 2023 however introduced a tax amnesty on interest and penalties for periods up to 31st December 2022. The amnesty runs from 1st September 2023 to 30th June 2024. Under the amnesty, a taxpayer is entitled to amnesty for penalties and interest upon payment of all outstanding principal taxes that were due for periods up to 31st December 2022. The sugar companies can take advantage of this amnesty by making payment arrangements with KRA to settle their outstanding principal taxes accrued up to 31st December 2022 by 30th June 2024 after which, the attendant penalties and interest for those periods will be waived. This will however still leave interest and penalties for the period January 2023 to date outstanding and payable.

171. The Government through the National Treasury can consider settling the principal taxes and non-waived penalties and interest to facilitate the restructuring.

4.24 HON. EMMANUEL WANGWE, CBS, MP

Hon. Emmanuel Wangwe, Member of Parliament for Navakholo Constituency and sponsor of the Sugar Bill (N.A. Bill No. 34 of 2022) appeared before the committee on Thursday, 7th September 2023 and submitted as follows:

172. The sugar sector is an industry that supports the livelihoods of over six million people. The decision to commercialize the 5 state-owned companies sets the sugar sub-sector on the path to revival by adopting the lease and operating framework after vacating the earlier decision of privatizing the state-owned factories, which made Kenyans imagine that the private investors were more motivated to grab the land than to revive the obsolete machines.

173. Enough consultation should be done between the Government and the county governments, sugar farmers, owners of the land and any other stakeholders not excluding the political leaders from the sugar belt since sugar is a politically sensitive product.

174. The following issues affect the sugar sector: High debt portfolio; low supply of cane; cane poaching; aging equipment and obsolete technology; farmers' arrears; staff salary arrears/non-remittance of deductions; lack of regulations (bring back the Sugar Act/Sugar Board); poor corporate governance; lack of sector funding; and excess sugar importation against bridge sugar supply deficit.

175. The model to lease out the five (5) government mills is well defined and supported, however, there is a need to address the outstanding salary arrears/non-remittance of deductions, since it is the same workforce that will be used during the transition.

176. There is a need for total reengineering of cane supply (to consider early maturing cane varieties) so that it synchronizes with factory demand. Cane poaching is a mirage that needs review.

177. On the Mumias Sugar Company issue, the company was at one point the largest sugar-producing mill with a capacity of 240,000 tons. Fortunately, to secure the company assets from the hands of auctioneers and maintain its operations it was placed under receivership by Kenya Commercial Bank Limited due to an unpaid loan of KSh. 545 million.

4.25 HON. JOHN WALUKE, MP

In a meeting with the Joint Committee held on Thursday, 7th September 2023, Hon. John Waluke, Member of Parliament for Sirisia Constituency and Chairperson of the Western Kenya Sugar Caucus of the National Assembly proposed the following ways to revive the sugar sector:

178. Farmers need to be incentivized to encourage them to go back to cane farming so that there is enough supply of sugarcane when the factories are revived.

179. Repackaging of sugar needs to be stopped because the packaging hardly indicates the actual origin of the repackaged sugar, expiry date and the KEBS mark of quality is for the supermarkets and not the manufacturers.

180. The Sugar (Imports, Exports and By-products) Regulations, 2020 (L.N. No. 125) needs to be repealed as it gives room for unscrupulous traders to smuggle sugar into the country and rebrand it thereby killing the local sugar industry.

181. Kenya should strictly apply the Common External Tariffs minimum of 35% on sugar imports coming from outside the COMESA region to safeguard local sugar.

182. The Government should implement the recommendations of the Sugar Stakeholders Taskforce Report of 2019.

4.26 MUMIAS OUTGROWERS COMPANY (1998) LIMITED

Mr. Gamaliel Anamanjia, CEO, appeared before the Committee on Thursday, 7th September 2023. He informed the Committee as follows:

183. MOCO is a sugarcane farmers' organisation initially set up through the initiative of GoK as a Limited Company by Government guarantee in 1975. The primary objectives of the Company were to raise funds for cane development and promote and protect the interests of small-scale sugarcane farmers. It has over 70,000 members and 300 employees.

184. MOCO farmers' Cane Development Fund was financed through loans from the British Government under the UK/Kenya Government Agreement No. 2 of 1976, GoK, Commonwealth Development Corporation, KSB, MOCO cane development levy of KSh. 6 per tonne of cane, MOCO interest and 15% net farmers retentions for a period of 12 months.

185. The Cane Development Fund was placed under the custody of MSC through an agreement drawn by the Government and signed by both MSC and MOCO on 28th May 1976. MOCO never had custody and neither did it manage the Fund.

186. MOCO was financially sound until 2008 when MSC decided to stop interest from cane development funds under their custody. During that time MOCO used to get monthly interest of KSh. 15 million. It was during this period that MOCO borrowed KSh. 200 million from KSB to purchase tractors. MOCO was unable to service the loan after the stoppage of remittances by MSC and their property is likely to be auctioned.

187. Efforts by KSB to run the tractors jointly with MUSCO were not successful because the Company also has financial problems. MSC refused to use the fleet as one of its transporters.

188. MOCO sought legal redress and the case is still ongoing. The Company is seeking KSh. 3.7 billion that was under the custody of MSC. MOCO was recently enjoined in the insolvency case against MSC.

189. They requested that the KSh. 3.7 billion is listed as one of MSC's debts to be cleared and the Government to waive the MOCO loan owed to KSB guaranteed by MSC as the tractors have been transferred back to KSB.

4.27 SUGAR RESEARCH INSTITUTE

The Institute Director, Ms. Betty Mulianga, appeared before the committee on Thursday, 7th September 2023 and submitted as follows:

190. Seed cane is an important input in sugarcane production and high seed cane quality is a prerequisite for increasing productivity. The optimal age for seed cane material in Kenya at higher altitudes is 8 to 13 months. In the Coastal Region where sugarcane is grown at low altitude optimal seed cane age is 6 to 8 months.

191. Multiplication of seed cane is carried out by the sugar research institute and the millers. However, the issue of high-quality, adequate seed cane has not been adequately addressed in the Kenya sugar industry as the quantities produced by the two institutions are inadequate. The Kenya sugar industry does not have a structured seed production and distribution system. Most of the seed cane

used in the industry originates from milling cane and thus not grown under appropriate seed cane conditions.

192. Further, the industry should adopt a three-tier model: Seed production; seed bulking; and seed distribution). Adoption of high-quality seed cane will contribute to benefits such as control of pests and diseases, improved varietal purity, increased productivity and income.

193. To alleviate this problem, there is a need to fund SRI to enhance seed cane production and certification. Infrastructural improvements such as upgrading the hot water seed cane treatment plant (HWTP), tissue culture laboratory and closed and open quarantine units at SRI will contribute immensely to rapid quality seed cane production.

Challenges in the Provision of Industry Support Services

194. **Inadequate funding for research:** Research financing relied on SDL up to 2016 when SDL was revoked. This led to a drastic reduction in funding of research activities. They proposed that the SDL be reinstated for funding and revitalization of the sugar sub-sector. A Sugar Development Fund should also be established consisting of: SDL, donor funds, funds from the National Government through the MOALD and funds from county governments. This fund will ensure the long-term sustainability of the sugar sub-sector.

195. **Low adoption of improved technologies:** Uptake of new technologies in the sugar industry has been low. There are 27 improved varieties currently yet the uptake is below 30%. This is largely attributed to low research funding and inadequate support from key partners (millers, farmers' organizations, regulators and county governments). Sugar Research Institute needs good economic and political goodwill to upscale the available technologies to farmers for a sustainable sugar industry.

196. **Inadequate participation of stakeholders in technology development:** The low funding of research activities has enormously affected the inclusion and involvement of relevant stakeholders in setting up of research priorities, and solution identification initiatives.

197. **Inadequate research capacity:** The industry has inadequate human, physical and financial capacity to undertake research that meets its requirements.

198. **Challenges in the provision of farm inputs**: The seed cane, pesticides and fertilizers and other farm operation services required by farmers are expensive; late supply and delivery of inputs and other farm services; and poor quality of supplied inputs.

199. **Challenges in the provision of advisory services:** High cost of private extension and advisory services; and poor research, extension and farmer linkages.

200. They proposed that research capacity be enhanced through the introduction of a sugar research levy through the upgrading of facilities at SRI, fastback development and equipping of molecular biotechnology laboratories at KALRO-SRI, upgrading of greenhouses at the sugarcane breeding center in Mtwapa, upgrading of the quarantine facility and replacing retired staff. Additionally, the sugar research value chain be broadened by supporting KALRO-SRI with the construction of a mini mill at Mtwapa and at Kibos for value addition and research of other sugar crops e.g. sugar beet, stevia and sweet sorghum.

PART FIVE

5 OBSERVATIONS AND FINDINGS

201. Having considered the Treasury Memorandum on Action Plans to Revive and Commercialise the State-Owned Sugar Companies, the Committees made the following observations and findings:

1. The Memorandum is silent on the treatment of staff salary arrears amounting to KSh. 5,234,465,033 and other creditors' payables of KSh. 26,717,029,621.12. Payment to other creditors includes monies owed to suppliers of goods and services.

2. The Memorandum tasked the MOALD and the National Treasury to come up with a payment plan for the farmers' arrears amounting to KSh. 1,715,129,404.

3. The amount of taxes, penalties and interest provided in the Memorandum are different from those submitted by KRA. According to the Memorandum, the total taxes, penalties and interest owed to KRA by the five (5) state-owned sugar mills amount to KSh. 50,144,801,608 while KRA submitted a total of KSh. 16,378,998,406, a difference of KSh. 33,765,803,202. However, the National Treasury wrote a letter, Ref. TNT/CONF 268/014 'J' dated 12th September 2023 *(annexed to the report)* stating that they agreed with the figures submitted to the Joint Committee by KRA. The total tax, penalties and interest owed to KRA by the five (5) state-owned sugar companies is therefore KSh. 16,378,998,406.

4. The position of the GoK on Miwani Sugar Company is not clear. The proposed strategic interventions in the Memorandum provide that a decision on the Company will be made once the ongoing cases are determined while on the other hand, the Company is included in the list of companies to be leased.

5. There is no legal framework governing the sugar industry in the country. The Sugar Bill (National Assembly Bill No. 34 of 2022) is scheduled to be considered in the Committee of the Whole House in the National Assembly. Consideration of the Bill needs to be fast-tracked in the two Houses of Parliament as the proposed legislation will provide solutions to most of the challenges in the sugar industry.

   The Bill proposes to re-introduce the KSB and SDL. Additionally, it puts in place the Kenya Sugar Research and Training Institute which will be funded by the SDL. This will go a long way in enhancing research in the sugar sub-sector and put in place sugarcane varieties that are fast maturing, high yielding and have high sucrose content. The Bill also proposes imposition of penalties on farmers and millers who will not honor the cane supply contracts offering a solution to the cane poaching menace. Further, a percentage of the SDL has been apportioned to cane development, a move that will play a role in improving cane yields in the country.

6. The Memorandum proposes to merge Chemelil and Muhoroni Sugar Companies into one factory. It is proposed that one investor will bid for both Companies.

7. Cane poaching is one of the main causes of most challenges in the sugar industry. Some state-owned sugar companies have cited cane poaching as the reason for the financial difficulties that they are faced with.

For instance, SONY Sugar Company highlighted that they had lost Ksh. 4 billion to the menace. This practice, perpetuated by unscrupulous millers has led to the harvesting of young cane therefore temporary closure of some sugar mills and subsequent sugar shortage in the country. It has also impacted negatively on cane development by millers because of the fear of losing their investment.

8. There is no funding for research in the sugar sub-sector in Kenya. Previously, the Kenya Sugar Research Foundation was funded by the Sugar Development Levy before the revocation of the Sugar Act. The Institute is currently a Directorate in KALRO and has no budgetary allocation for research.

9. All five (5) public sugar mills are faced with dire financial difficulties resulting in some having failed to undertake annual machinery maintenance for many years.

10. There is no legal framework for the sugar cane pricing committee and the pricing formula has no research backing. The Departmental Committee on Agriculture and Livestock to include the pricing formula in the Sugar Bill, 2022. The Pricing Committee will be required to approve the pricing model submitted by the Sugar Research Institute.

11. Out-grower organisations play a big role in the sugar industry. For instance, they do cane development for farmers, provide farm machinery, inputs at subsidised prices and are the link between farmers and other players in the sugar industry.

PART SIX

6 COMMITTEE RECOMMENDATIONS

202. The Joint Committee makes the following recommendations:

1. That, the House grants approval of the leasing model for the five (5) state-owned sugar companies within the provisions of the Public Private Partnerships Act (No. 14 of 2021). The provisions in the leasing model shall include the following:
    I. The lease shall be for a period not exceeding thirty (30) years pursuant to section 21(2) of the Public Private Partnerships Act (No. 14 of 2021) for the sugar mills and the nucleus estates presently owned by the state-owned sugar companies whereby the nucleus land shall only be used for cane development and cannot be used as collateral by the lessees.
    II. At the expiry of the lease period, the land will revert to the original owners;
    III. The National Treasury shall cause the assessment of the lease shall be done after every five years to determine whether the lessee has adhered to the terms of the lease and if the lease can be renewed;
    IV. The lessees shall modernize the sugar mills by installing new machines and technologies to revive the companies, improve the financial well-being of farmers, create employment (both direct and indirect) and increase Government revenue;
    V. The lessees shall specify the CSR activities that they will set up for the local community as a requirement for the award of the lease;
    VI. The fate of workers who are currently working in the mills shall be specified; and
    VII. The leasing process shall be clearly outlined and shall include stakeholder engagement;

2. That, the House vacates the privatization model approved by the National Assembly in 2015.

3. That, the House approves the Cabinet's decision to write off total tax arrears of KSh. 16,378,998,407 comprising of KSh. 9,926,209,019 as principal tax, KSh. 231,217,718 as interest and KSh. 6,221,571,670 as penalties owed by all the five (5) state-owned sugar companies as follows:

Table 8: Breakdown of Taxes, Penalties and Interest

S/NO.	NAME OF COMPANY	PRINCIPAL TAX (KSH.	PENALTY (KSH.)	INTEREST (KSH.)	TOTAL AMOUNT PAYABLE (KSH.)
1.	Nzoia Sugar Company	4,186,369,531	57,188,128	2,899,356,655	7,142,914,315
2.	Chemelil Sugar Company	1,713,059,990	70,272	1,083,363,861	2,796,494,123
3.	Muhoroni Sugar Company Limited	2,005,382,927	84,839,507	1,148,481,022	3,238,703,456
4.	Miwani Sugar Company Limited	678,236	836,400	591,585	2,106,221

5.	South Nyanza Sugar Company Limited	2,020,718,335	88,283,410	1,089,778,547	3,198,780,292
TOTAL		9,926,209,019	231,217,717	6,221,571,670	16,378,998,407

Source: Kenya Revenue Authority

4. That, the House approves the Cabinet's decision to write off loans owed to the GoK and Kenya Sugar Board/Commodities Fund by the five (5) state-owned sugar companies amounting to KSh. 65,778,448,646 as follows:
   I. Nzoia Sugar Company – KSh. 47,066,777,011
   II. South Nyanza Sugar Company – KSh. 1,391,366,940
   III. Miwani Sugar Company – KSh. 3,890,122,859
   IV. Muhoroni Sugar Company – KSh. 9,689,313,374
   V. Chemilil Sugar Company – KSh. 3,740,868,462

5. That, within ninety (90) days of the House's resolution to adopt this report, the National Treasury to cause payment of KSh. 1,683,397,053.69 as arrears to the farmers in the five (5) state-owned sugar companies as follows:
   I. Nzoia Sugar Company – KSh. 269,606,265
   II. South Nyanza Sugar Company – KSh. 865,853,677
   III. Miwani Sugar Company – KSh. 0
   IV. Muhoroni Sugar Company – KSh. 316,651,523
   V. Chemilil Sugar Company – KSh. 231,285,588.69

6. That, within ninety (90) days of the House's resolution to adopt this report, the National Treasury to cause payment of KSh. 5,234,465,033 as salary arrears and other emoluments in the five (5) state-owned sugar companies as follows:
   I. Nzoia Sugar Company – KSh. 1,843,427,512
   II. South Nyanza Sugar Company – KSh. 1,194,397,767
   III. Miwani Sugar Company – KSh. 0
   IV. Muhoroni Sugar Company – KSh. 1,080,444,410
   V. Chemilil Sugar Company – KSh. 1,116,195,344

7. That, the House rejects the proposed merger of Chemelil Sugar Company and Muhoroni Sugar Company and that the two companies be leased as separate entities.

8. That, the House approves the introduction of five (5) cane development and farmer representation catchment areas i.e. Rift Region (Kericho, Nandi and Uasin Gishu Counties), Upper Western Region (Bungoma and Transnzoia Counties), Lower Western Region (Busia, Kakamega, Siaya and Vihiga Counties), Southern Region (Homa Bay, Kisumu, Migori and Narok Counties) and Coastal region (Kwale, Lamu and Tana River Counties) where cane supply contracts are signed between a farmer and miller. The cane supply contract should include the timelines and a cane pricing formula that is developed by the Sugar Research and Training Institute and approved by the Sugar Pricing Committee.

9. That, the National Treasury and the Ministry of Agriculture and Livestock Development should conduct an audit of the debt portfolio of the out-grower companies including Mumias Out-Growers Company (1998) Limited and Nzoia Out-Growers Company Limited and establish whether they are solvent and can be utilised for cane development

within sixty (60) days of the adoption of this report and table the report in the House for consideration and adoption.

10. That, within ninety (90) days of the adoption of this report, the National Treasury causes the allocation of KSh. 600 million to the Sugar Research Institute for multiplication and popularisation of the twenty seven (27) sugarcane varieties already generated through research.

11. That, within sixty (60) days of the adoption of this report the Ministry of Agriculture and Livestock Development puts in place regulations to protect the recommendations in this Report. The regulations shall be submitted to the National Assembly within sixty (60) days of adoption of this report for consideration as provided in the Statutory Instruments Act.

12. That, within sixty (60) days of the adoption of this report, the Auditor-General conducts a forensic audit of other debts amounting to KSh. 26,717,029,621.12 to ascertain its authenticity and table a report to the National Assembly to facilitate the budgeting for the settlement of the authenticated debts

Signed: ....

Date: ......14th Sept. 2023......

Hon. CPA. Kuria Kimani, MP
Chairperson, Departmental Committee on Finance and National Planning

Signed: ....

Date: ....14-09-2023....

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