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THIRTEENTH PARLIAMENT – THIRD SESSION – 2024

DIRECTORATE OF DEPARTMENTAL COMMITTEES
DEPARTMENTAL COMMITTEE ON AGRICULTURE AND LIVESTOCK

SECOND REPORT ON:

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

THE NATIONAL ASSEMBLY PAPERS LAID	
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CLERKS CHAMBERS
DIRECTORATE OF DEPARTMENTAL COMMITTEES
PARLIAMENT BUILDINGS
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TABLE OF CONTENTS

<i>LIST OF ABBREVIATIONS AND ACRONYMS</i>	<i>ii</i>
<i>LIST OF ANNEXURES</i>	<i>iii</i>
<i>CHAIRPERSON'S FOREWORD</i>	<i>iv</i>
CHAPTER ONE	6
1 PREFACE	6
1.1 ESTABLISHMENT OF THE COMMITTEE.....	6
1.2 MANDATE OF THE COMMITTEE.....	6
1.3 COMMITTEE MEMBERSHIP.....	7
1.4 COMMITTEE SECRETARIAT.....	8
CHAPTER TWO	9
2 BACKGROUND OF THE MAIZE FLOUR SUBSIDY PROGRAMME	9
2.1 INTRODUCTION.....	9
2.2 PAST SUBSIDY PROGRAMMES IN KENYA.....	10
2.3 THE MAIZE FLOUR SUBSIDY PROGRAMME FOR FY 2022/23.....	12
CHAPTER THREE	13
3 IMPLEMENTATION OF THE PROGRAMME	13
3.1 THE TRIGGERS TO THE RESPONSE.....	13
3.2 THE SUBSIDY IMPLEMENTATION PROCESS.....	13
3.3 THE SUBSIDY PROGRAMME OVERSIGHT IMPLEMENTATION COMMITTEE.....	14
3.3 MOALFC FACTSHEET.....	15
CHAPTER FOUR	17
4 STAKEHOLDER SUBMISSIONS ON THE MAIZE FLOUR SUBSIDY PROGRAMME	17
4.1 CEREAL MILLERS' ASSOCIATION.....	17
4.2 GRAIN MILL OWNERS' ASSOCIATION.....	21
4.3 MINISTRY OF AGRICULTURE AND LIVESTOCK DEVELOPMENT.....	26
4.4 THE NATIONAL TREASURY AND ECONOMIC PLANNING.....	34
4.5 OFFICE OF THE ATTORNEY GENERAL AND DEPARTMENT OF JUSTICE.....	34
4.6 INDEPENDENT MILLERS.....	35
CHAPTER FIVE	36
5 COMMITTEE FINDINGS/OBSERVATIONS	36
5.1 GENERAL OBSERVATIONS.....	36
5.2 GRAIN MILL OWNERS' ASSOCIATION.....	43
5.3 CEREAL MILLERS' ASSOCIATION.....	47
5.4 INDEPENDENT MILLERS.....	48
CHAPTER SIX	49
6 COMMITTEE RECOMMENDATIONS	49
6.1 GENERAL RECOMMENDATIONS.....	49
6.2 THE GRAIN MILL OWNERS' ASSOCIATION.....	50
6.3 THE CEREAL MILLERS' ASSOCIATION.....	50
6.4 INDEPENDENT MILLERS.....	50
REFERENCES	51

LIST OF ABBREVIATIONS AND ACRONYMS

UDA	-	United Democratic Alliance
ODM	-	Orange Democratic Movement
NOPEU	-	National Ordinary People Empowerment Union
DAP-K	-	Democratic Alliance Party of Kenya
CMA	-	Cereal Millers Association
GMOA	-	Grain Mill Owners' Association
NCPB	-	National Cereals and Produce Board
KSh	-	Kenya Shilling
FY	-	Financial Year/Fiscal Year
AFA	-	Agriculture and Food Authority
Kgs	-	Kilograms
COMESA	-	Common Market for Eastern and Southern Africa
UN	-	United Nations
SDGs	-	Sustainable Development Goals
KEBS	-	Kenya Bureau of Standards
PIN	-	Personal Identification Number
VAT	-	Value Added Tax
MOALFC	-	Ministry of Agriculture, Livestock, Fisheries and Cooperatives
COVID	-	Corona Virus Disease
KRA	-	Kenya Revenue Authority
PAO	-	Principal Agricultural Officer
AS	-	Assistant Secretary
SAS	-	Senior Assistant Secretary
US	-	Under Secretary
MAT	-	Multi-Agency Team
EACC	-	Ethics and Anti-Corruption Commission
DCI	-	Directorate of Criminal Investigations
KEPHIS	-	Kenya Plant Health Inspectorate Service
NT&P	-	National Treasury and Planning
GoK	-	Government of Kenya
GMO	-	Genetically Modified Organisms
<i>Bt</i>	-	<i>Bacillus Thuringiensis</i>
DCI	-	Directorate of Criminal Investigations

LIST OF ANNEXURES

- Annex 1: Adoption Schedule
- Annex 2: Minutes
- Annex 3: Preliminary Report on the Maize Flour Subsidy Programme for FY 2022/23
- Annex 4: Media Advisory on the Implementation of the National Maize Flour Subsidy Programme
- Annex 5: H. E. the President's Speech on the Fifth Stimulus Package Focusing on Food Subsidies
- Annex 6: Implementation Strategy for the Maize Flour Subsidy Programme by the Government of Kenya
- Annex 7: MOALFC Factsheet
- Annex 8: Letter NA/DDC/A&L/2023/005
- Annex 9: Letter NA/DDC/A&L/2023/006
- Annex 10: Letter NA/DDC/A&L/2023/039
- Annex 11: Letter NA/DDC/A&L/2023/040
- Annex 12: CMA's Submission (1)
- Annex 13: CMA's Submission (2)
- Annex 14: GMOA's Submission
- Annex 15: Ministry of Agriculture and Livestock Development's Submission
- Annex 16: Letter from the National Treasury and Economic Planning
- Annex 17: Letter from the Office of the Attorney-General
- Annex 18: CMA Letter on Interventions Required for Maize & Wheat Grain Imports to Stabilise Prices
- Annex 19: CMA Letter on Maize Supply Constraints
- Annex 20: CMA Letter on the Maize Situation as at 22nd April 2022
- Annex 21: CMA Letter the Maize Situation as at 22nd June 2022
- Annex 22: CMA Letter on the Interventions Required for Maize and Wheat Grain Imports to Stabilise Prices.
- Annex 23: Copy of the Contract Signed Between the Government and Millers
- Annex 24: CMA Letter on the Status of Maize Subsidy Programme and Payments
- Annex 25: Minutes of the Meeting Held Between PS (Dr.) Francis Owino and the CMA Team on Friday 9th September 2022 at 3 pm.
- Annex 26: CMA Letter Requesting for a Review Meeting on Pending Invoices
- Annex 27: CMA Letter Reminding the Government of Pending CMA Payments
- Annex 28: CMA Letter on Outstanding Payments owed to Millers as Pending Bills under the Maize Subsidy Programme, 2022
- Annex 29: CMA Letter reminding the Government of Outstanding Payment Owed to Millers as Pending Bills under the Maize Subsidy Programme 2022
- Annex 30: Letter to the NCIA
- Annex 31: Court Award
- Annex 32: Notice of the Registrar

CHAIRPERSON'S FOREWORD

This report contains proceedings of the Departmental Committee on Agriculture and Livestock on the Inquiry into the GoK's Maize Flour Subsidy Programme that was implemented in FY 2022/23.

The objective of the inquiry was to establish whether the Maize Flour Subsidy Programme for FY 2022/23 achieved its objective of providing cheap sifted maize flour to Kenyans and whether there was value for money. In this respect, evidence that some Kenyans benefitted from the Programme has been considered by the Committee with utmost interest since it actualizes the value for money aspect.

In recent years, Kenya has been experiencing maize deficit for various reasons including; below average rainfall performance in amounts and distribution, high cost of agricultural inputs, decreasing acreage of land for farming due to population growth as well as land use substitution, uneconomical land subdivision and poor agronomic practices in promoting productivity of the staples among others. To bridge the deficit, the country resorted to maize importation from the East African Community and the COMESA Region. However, this was not the case in 2022 because there was poor production of maize in the Region, which forced the country to explore possibilities outside the nearby sources.

Due to the maize shortage, prices increased from KSh. 3,000 to KSh. 3,500 per 90 Kg bag in April 2022 to KSh. 4,600 to KSh. 5,000 in May 2022 and further to KSh. 6,500 in July 2022. The increase in maize prices translated into increase in the cost of maize flour. A 2 Kg packet of sifted maize flour was retailing at between KSh. 190 and KSh. 215 depending on the brand and quality.

To cushion consumers from the high prices, the Government waived duties and levies on maize imports from countries outside the East Africa and COMESA Regions to bridge the gap. Despite this, maize prices continued to rise due to shortage, disruption in the global supply chain and high fuel prices. The Government therefore decided to further cushion consumers through the Maize Flour Subsidy Programme.

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

From the meetings, the Committee established that:

1. the sifted maize flour under the Programme was not stamped (SUBSIDISED OR KSH. 100) and this may have reduced the success levels of the Programme;
2. two different contracts were produced at the point of commissioning the programme, although one of the two was signed by all the millers;
3. different amounts of maize flour were supplied in the Programme, according to the submissions presented by the Ministry of Agriculture and Livestock Development, the Cereal Millers' Association and the Grain Mill Owners' Association;
4. the amounts requested to be paid to CMA significantly changed at some point with the explanation that two millers had been omitted from the initial list; and
5. the membership of GMOA mainly sold their maize flour from their factory outlets after the announcement of the subsidy programme while those of CMA mainly stuck to their supplies management processes.

The committee conducted further verification checks to ascertain that some Kenyans actually bought maize flour from the millers at KSh. 100 as was indicated by millers in their submissions. From the triangulated findings, the Committee produced a preliminary report and tabled the same in the National Assembly on 7th June 2023 (*annex 3*), clearing the membership of the Grain Mill Owners Association for payment of the balances owed. The same report regularized the expenditure by the ministry in paying the membership of GMOA and the outstanding balances from the 2017/18 maize subsidy intervention.

To get further clarification on some outstanding issues, the Committee held meetings with the Ministry of Agriculture and Livestock Development, the Cereal Millers Association and millers who participated in the Programme independently (not in CMA or GMOA).

From the meetings, the Committee made various observations as captured in this report and recommended that the sifted maize flour supplied by the Cereal Millers Association be subjected to further scrutiny in order to establish whether the flour was actually distributed in the country as alleged by the Association.

Millers who neither belonged to CMA or GMOA also participated in the Programme contrary to the Ministry's submission that only millers in associations participated in the Programme. Investigations into this need to be carried out to find out what led to this change.

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

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

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

CHAPTER ONE

1 PREFACE

1.1 ESTABLISHMENT OF THE COMMITTEE

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

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

1.2 MANDATE OF THE COMMITTEE

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

1.3 COMMITTEE MEMBERSHIP

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

Chairperson

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

Vice-Chairperson

Hon. Brighton Leonard Yegon, MP
Konoin Constituency
UDA Party

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

Hon. Ferdinand Kevin Wanyonyi, MP
Kwanza Constituency
Ford Kenya Party

Hon. Geoffrey Makokha Odanga, MP
Matayos Constituency
ODM Party

Hon. Justice Kipsang Kemei, MP
Sigowet/Soin Constituency
UDA Party

Hon. Jared Okello Odoyo, MP
Nyando Constituency
ODM Party

Hon. Lawrence Mpuru Aburi, MP
Tigania East Constituency
NOPEU Party

Hon. David Kiplagat, MP
Soi Constituency
UDA Party

Hon. Gabriel Gathuka Kagombe, MP
Gatundu South Constituency
UDA Party

Hon. Monicah Muthoni Marubu, MP
Lamu County
Independent Member

Hon. Pamela Njoki Njeru, MP
Embu County
UDA Party

Hon. Patrick Kibagendi Osero, MP
Borabu Constituency
ODM Party

Hon. Peter Kalerwa Salasya, MP
Mumias East Constituency
DAP-K Party

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

1.4 COMMITTEE SECRETARIAT

5. The Committee is facilitated by the following Secretariat:

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

Mr. Victor Kanda Kilimo
Clerk Assistant III

Ms. Brigitta Mati
Legal Counsel I

CPA. Robert Ng'etich
Fiscal Analyst II

Mr. David Ng'eno
Research Officer II

Ms. Sheila Chebotibin
Senior Serjeant-At-Arms

Mr. Gerald Kadede
Legal Counsel II

Ms. Noelle Chelagat
Media Relations Officer II

Mr. Muhumed Shillow
Research Officer III

Ms. Lilian Aluga
Protocol Officer III

Mr. Richard Sang
Serjeant-At-Arms

Mr. Meldrick Sakani
Audio Officer III

CHAPTER TWO

2 BACKGROUND OF THE MAIZE FLOUR SUBSIDY PROGRAMME

2.1 INTRODUCTION

6. Maize is a cereal and the most important staple food that is grown and milled in Kenya. It is grown as a subsistence and commercial crop by both large and small-scale farmers respectively on about 2.2 million hectares of land in Kenya. The current national average production is between 16 and 20, 90 Kgs bags per hectare but with appropriate interventions, production can be doubled.
7. It is an important food crop for humans and a key ingredient in many animal feeds. It is a major source of food not only for Kenya but for people in many parts of the world, particularly in Latin America and Africa.
8. Global production of maize was estimated at 1.05 billion metric tons in 2022, up from 990 million metric tons in 2020. Most of the increase in maize production was attributed to China, the United States of America, Brazil, Mexico, Argentina, South Africa and Ukraine. Modern technology, especially genetic engineering has led to improved productivity of maize globally, but Kenya is yet to allow for production and importation of Genetically Modified Maize (BT maize). The shortage therefore refers to non-GMO white maize.
9. In efforts to realize high maize production, different countries pursue various interventional strategies. China, for example, introduced the following interventions aimed at making the country 95% self-sufficient in major cereals: Formulation of policies that support grain production; development of marketing and logistics systems; putting in place a grain reserve policy; and supporting the development of grain processing industries.
10. Some countries in Africa have been implementing various interventions in a bid to increase productivity in the maize subsector, which has resulted in a drastic increase in maize production as witnessed in Malawi and Zambia. The Malawian intervention spearheaded by the then President mainly focused on input cost reduction and moved the country from import dependency to self-sufficiency.
11. Kenya has been implementing several interventions aimed at improving maize production and achieving food and nutritional security in the country.
12. However, despite the efforts by the previous Government, the country continued to be faced with food shortage where approximately 4.1 million people were faced with starvation in 2022, forcing the Government to rely on imports from international markets and neighbouring countries to plug off the deficit which resulted in negative balance of trade between exports and imports for a long time.
13. This in effect threatens Kenya's pursuit for Vision 2030 and the provision of the UN SDGs of eradicating hunger and poverty by the year 2030 and achieving sustainability in food sufficiency.

2.2 PAST SUBSIDY PROGRAMMES IN KENYA

Interventions during President Mwai Kibaki's Administration

14. In September 2011, the former President of the republic of Kenya, HE Mwai Kibaki signed into law the Price Control (Essential Goods) Bill that allowed Kenya to return to price controls on any essential commodity after the practice was abandoned in the 1990s in favour of economic liberalization.
15. The law allowed the Minister for Finance to set maximum prices of gazetted essential commodities upon consultation with the relevant industry. In the run-up to the 2017 General Election, the Government used the Order under the Price Control (Essential Goods) Act to cap maize flour prices at KSh. 90 for a 2 Kg packet after retail prices hit KSh. 143.

Interventions during President Uhuru Kenyatta's Administration

16. In mid-2022, maize flour prices sky-rocketed to a record-high price of KSh. 210 for a 2 Kg packet. The Government introduced a short-term Maize Flour Subsidy Programme implemented between 21st July and 17th August 2022, the height of political activity in the run-up to the 2022 General Elections.
17. Under the Programme, consumers were to purchase a 2 Kg packet of sifted maize flour at KSh. 100 down from the then prevailing price of KSh. 210 in a move that was aimed at making the maize flour affordable to most Kenyans.
18. It has been argued that in the Kenyan model, farmers enjoy a double subsidy. Ideally, the Government should intervene on either the supply side or the demand side, but not both. For example: the Government can intervene to keep costs of production as low as possible so that consumers buy food at market prices or allow producers to sell at market prices and subsidize prices for consumers who cannot afford these prices.
19. The Kenya Kwanza government is currently trying out production subsidies as opposed to consumption subsidies which have so far shown impressive results.

Comparative Analysis of Maize Subsidy Programmes with other Jurisdictions

20. The Chinese subsidy programme cushions both farmers and consumers. During harvest, the Government buys maize at prices higher than the market prices thus enabling farmers to break even. The Government then sells the same at a price lower than the market price thus cushioning the consumers. Such a model is ideal where the government is the main dealer on the supply and the demand side of the equation, and has resources to support her people from other sources.
21. The consumer subsidy model has been used by India and Egypt where households are given a cash transfer to purchase food. In such countries, consumers do not necessarily produce such commodities as livelihood support systems and governments may also use revenue from other non-agricultural sources to ensure that the population spends less on food.
22. Malawi achieved food self-sufficiency through the Farm Input Subsidy Program (FISP) by increasing smallholder farmers' access to and use of improved agricultural inputs thereby boosting the incomes of resource-poor farmers. The Program was administered through vouchers or coupons

that enabled eligible households to purchase fertilizer, hybrid seeds and pesticides at reduced prices. The program targeted smallholder farmers who owned land and were legitimate residents of their villages. The strategy increased maize productivity in Malawi.

23. Kenya on the other hand has been trying a multiplicity of production-related subsidies, whose impact has not been felt due to a number of reasons. Through the maize improvement programme's e-voucher system, the government has identified and qualified agro-dealers from where farmers can procure inputs using a government supplied voucher. The farmers are pre-registered with their acreages of land recorded and verified by agricultural agents in their locality. Whenever the government supplies are announced, farmers visit their agro-dealers for the inputs. This programme has doubled productivity in certain parts of the country.

Lessons from the Background Situational Analyses

24. To maintain stable production and prices, the Government needs to focus on long-term interventions that will improve productivity and lower the production costs per unit. These include among others water harvesting and stormwater management initiatives to preserve water during the rainy season for a later date supplementary irrigation in order to sustain production all year-round. In the advent of climate change, the government ought to adopt climate-smart agricultural practices which enable productivity enhancement as well as sustenance of climate responsive actions and processes.
25. Increase investment in irrigated agriculture by both the National and county governments as is the case of the Galana-Kulalu Irrigation Project to increase the area under irrigation as well as area under preferred cropping systems.
26. The government needs to restructure the fertilizer subsidy program to improve access and timely delivery because timeliness of fertilizer application is an essential step in productivity enhancement. The type of fertilizer supplied should be intricately linked to the soil health substance plan for specific crop varieties, derived from frequent soil sampling and testing results.
27. Distance from fertilizer distribution points needs to be reduced to cut down on costs. Long distances covered by both small and large-scale farmers to access subsidised fertilizer can be reduced through initiation of temporal or long-term alternative supplies arrangements, as well as opening up satellite distribution points.
28. Certain services are essential to be incorporated into the major plan such as extension advisory services and a multiplicity of other crop monitoring services which respond to emergencies such as army worm or the recent locust infestation.
29. Engagement of key players in the industry such as fertilizer dealers will enable the sector to systematically grow and sustain itself because interruptions will be minimised. It is therefore important for the government to try as much as possible to intervene through the industry players.
30. When short-term intervention in the markets is required, it should be strategic and with a clear exit strategy, which aims at ensuring sustainability. Currently, short-term interventions seem to be the only response, leading to the same challenges being repeated.

31. Provision and promotion of improved maize seeds that are climate-resilient to counties as well as effective crop pest and disease control measures are essential considerations in having high and sustainable sub-sectoral outputs.
32. Investing in reliable early warning systems to enhance the resilience of farmers in adapting and mitigating the effects of climate change is essential for accurate decision making in the event of such occurrences.

2.3 THE MAIZE FLOUR SUBSIDY PROGRAMME FOR FY 2022/23

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

CHAPTER THREE

3 IMPLEMENTATION OF THE PROGRAMME

3.1 THE TRIGGERS TO THE RESPONSE

36. The Cabinet Secretary for the Ministry of Agriculture, Livestock, Fisheries and Cooperatives issued a media advisory on 21st July 2022 (*annex 4*) updating the country on the implementation of the national Maize Flour Subsidy Programme. He stated that there was concern about the food situation in the country and that the government had been monitoring the situation for the past year.
37. He observed that Kenya and the larger Horn of Africa countries had experienced drought in the previous four years which had resulted into crop failures and poor harvests in some parts of the country. The situation had been exacerbated by other disasters like a locust invasion in 2019, the effects of the COVID-19 pandemic in 2020 and 2021 and the Ukraine-Russian War which had disrupted the global food and farm inputs supply chain. This led to a tremendous increase in the number of vulnerable households in the country and a rise in the cost of basic food items.
38. He averred that the Government, through the MOALFC had come up with various mitigation initiatives to arrest the situation. H.E. the President had announced the Fifth Stimulus Programme covering the supply and distribution of maize meal across the country on 20th July 2022 (*annex 5*). The President had pronounced that a 2 Kg packet of maize flour shall retail at KSh. 100 down from KSh. 205 until further directed.

3.2 THE SUBSIDY IMPLEMENTATION PROCESS

39. The Government agreed to cushion consumers through the allocation of requisite resources to finance a Maize Flour Subsidy Programme where the consumer maize flour prices across the country would be applied as follows (*annex 6*):

Table 1: Consumer maize flour prices

S/NO.	PACKAGING SIZE	SELLING PRICE (KSH.)
1.	1 Kilogramme	52.00
2.	2 Kilograms	100.00
3.	0.5 Kilogramme (500 grams)	30.00
4.	5 Kilogrammes	250.00
5.	10 Kilogrammes	490.00
6.	50 Kilogrammes	2,250.00

Source: Ministry of Agriculture and Livestock Development

40. The Government committed to avail the required resources every week for an initial period of four (4) weeks with an option of extension, to be paid out to millers participating in the Programme.

3.3 THE SUBSIDY PROGRAMME OVERSIGHT IMPLEMENTATION COMMITTEE

41. To operationalise the Maize Flour Subsidy Programme, a Multi-Agency Taskforce (MAT) comprising representatives from the MOALFC, the National Treasury, NCPB, AFA, KRA, CMA and Small and Medium Scale Millers Association would oversee the implementation of the Programme.

3.3.1 TERMS OF REFERENCE FOR THE MULTI-AGENCY TASKFORCE

42. The MAT would be chaired by the Principal Secretary for the State Department for Crops Development and it would be required to ensure:

- i. that each miller is registered with AFA as a miller;
- ii. that a duly executed and valid contract between the participating millers with the Government was in place;
- iii. oversight of implementation of the Programme for the smooth running of the Maize Flour Subsidy Programme;
- iv. that weekly progress reports on the performance of the Subsidy Programme are prepared and submitted to the Cabinet Secretary for MOALFC;
- v. that an ESCROW account is opened and operated by the MOALFC at the Central Bank of Kenya to avoid commingling of funds targeted at the subsidy programme from those of the mother Ministry;
- vi. that sufficient funds are available to run the Programme for the entire implementation period;
- vii. timely processing of payment for invoices received from the participating millers within the agreed timelines as set out under Article 4.4 of the contract is achieved;
- viii. that any necessary official communication and documents relating to the Maize Flour Subsidy Programme are prepared and signed by the chairperson; and
- ix. that any other duty pertaining to the Subsidy Programme as allocated by the Government from time to time is undertaken.

3.3.2 ROLES OF PARTICIPATING GOVERNMENT INSTITUTIONS (MOALFC, TNT, KRA, AFA AND NCPB)

43. Government agencies in the MAT were tasked to execute the following roles:

- i. Verify the list of all registered millers participating in the Subsidy Programme;
- ii. The State Department for Crops Development and Agricultural Research was tasked to nominate, train and deploy officers to be present in each participating miller's premises and depots;
- iii. The deployed Ministry officials were tasked to verify:
 - a. The opening stock of maize held by participating millers at the commencement date of the Subsidy Programme;
 - b. Daily maize intake quantity records;
 - c. Daily production records of maize flour; and
 - d. Daily dispatch records and delivery notes by the millers.
- iv. Submit daily reports on the activities of the millers including operating hours;
- v. Ensure accuracy and correctness of the requisite documents to be provided by the miller as proof of daily production, dispatch and sale of maize flour as guided through the contract;
- vi. The documents in 5 above were verified, signed and stamped by the MOALFC officers as confirmation of dispatch and sale of the maize flour. They included:
 - a. The invoice to the miller's customers for the maize flour sold; and

- b. Delivery or dispatch documents evidencing the sale of sifted maize flour.
- vii. Receive a list of approved payments and authorized payments to millers; and
- viii. The National Treasury to avail the requisite funds for the Maize Flour Subsidy Programme and oversight the execution of the ESCROW account.

3.3.3 ROLE OF MILLER ASSOCIATIONS/MILLERS

44. Millers participating in the Programme were required to:
- i. Be registered or seek registration with AFA to be incorporated in the Subsidy Programme;
 - ii. Declare milling and utilisation capacities and stocks held by the millers participating in the Subsidy Programme at the commencement date of the Programme;
 - iii. Operate under associations of millers for identification and confirmation of payments;
 - iv. Submit daily invoices for the subsidy amount due to the Principal Secretary, State Department for Crop Development and Agricultural Research;
 - v. Continue to purchase maize at the prevailing market rates;
 - vi. Supply maize flour to the market as per the terms of the Subsidy Programme contract; and
 - vii. Conform to the prescribed KEBS quality standard applicable under the laws of Kenya and implemented by KEBS, particularly regarding maize aflatoxin levels.

3.3.4 ROLE OF KENYA BUREAU OF STANDARDS

45. KEBS was tasked to undertake surveillance and *ad hoc* quality inspection of the maize flour from millers at the point of production as well as at the retail outlets to ensure that the milled flour products conform to the KEBS standards.

3.3 MOALFC FACTSHEET

The Ministry released a factsheet on the Subsidy Programme with the following details (*annex 7*):

46. **Period for the Programme:** The Subsidy Programme was to run for 4 weeks from 20th July 2022 to 20th August 2022.
47. **Participants in the Programme:** Registered millers who indicated their interest in participating in the Programme and signed individual contracts with the MOALFC.
48. **Beneficiaries of the Programme:** All Kenyans across the country.
49. **Restriction on the number of packets that a consumer could buy:** There would be no restriction, however, re-sale was prohibited and the Government would use relevant authorities to bring those engaging in the malpractice to account.
50. **Rationing of the subsidized maize flour:** There was no scarcity of maize flour, but the price was high affecting access by some households. Availability and access to maize flour was expected to stabilize when imports continued flowing into the country and the long rains seasonal production hit the market. There was therefore no need to panic and stock up excess maize flour.
51. The Ministry was however monitoring the situation to determine whether there was need to limit the purchase of maize flour by each retailer and if need be, a limit of 4 to 6 kgs would be imposed on retail customers.

52. **Where the KSh. 100 per 2 Kg maize flour could be bought:** The Flour would be available in most retail and wholesale outlets across the country. Millers would continue with the normal distribution of the maize flour.
53. **Brands sold at the subsidized price:** Millers willing to partner with the Government would avail their brands at the subsidised price. All brands of sifted maize flour from the participating millers would be available in their market outlets.
54. **What was expected to happen if maize flour prices reverted to over KSh. 200 after the 4 weeks:** It was expected that the maize deficit would ease after the end of August 2022 and the maize prices would begin to go down.

CHAPTER FOUR

4 STAKEHOLDER SUBMISSIONS ON THE MAIZE FLOUR SUBSIDY PROGRAMME

55. In a bid to establish the status of the Maize Flour Subsidy Programme for the Financial Year 2022/23, the Committee invited stakeholders for meetings via letters REF: NA/DDC/A&L/2023/005 (*annex 8*), NA/DDC/A&L/2023/006 (*annex 9*), NA/DDC/A&L/2023/039 (*annex 10*) and NA/DDC/A&L/2023/040 (*annex 11*). The Committee received and discussed submissions from the following stakeholders:

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

The stakeholders submitted as follows:

4.1 CEREAL MILLERS' ASSOCIATION

In a meeting held on Tuesday, 14th March 2023, Ms. Paloma Fernandes, Chief Executive Officer of the Cereal Millers' Association responded to the questions asked by the Committee as follows (*annex 12*):

56. **How the millers who participated in the process were identified from the totality of the sector:** The Programme was open to all millers. Each miller signed their contract with the Ministry of Agriculture, Livestock, Fisheries and Cooperatives with clear terms.
57. **The Context and content of the contracts issued to the millers for the supply of subsidized maize flour:** Article three of the contract signed between the millers and the Government provided for pricing and calculation of the subsidy. The Government signed contracts with one hundred and twenty-nine (129) milling companies including twenty-nine (29) from CMA. Their report was however silent on how the millers were notified to participate in the Subsidy Programme.
58. **How the contracts to supply the subsidized maize flour were awarded to the identified millers:** Every participating miller was required to have been registered by the Agriculture and Food Authority (AFA). The miller was required to:
- i. declare their milling and utilization capacities and maize stocks held at the commencement date of the Programme;
 - ii. declare their participation in an association for identification and confirmation of the payments;
 - iii. submit daily invoices for the subsidy amount due to the PS, State Department for Crop Development and Agricultural Research; and
 - iv. conform with the KEBS quality standards as applied under the laws of Kenya particularly with regards to the aflatoxin levels.
59. **The amount of maize flour that was supplied under the Programme and the scope of coverage of the country:** CMA reported that according to NCPB, 5,264,073 (24 Kg) bales of flour totalling

126,337,752 Kgs were supplied by all millers. They also attached the amount of maize flour that was supplied in each region as at 19th August 2022.

They stated that out of the total amount of maize flour that was supplied, the Association sold 40,417,293 Kgs (47.2%) through the general trade outlets, 20,908,448 Kgs (24.4%) through their retail outlets, 8,392,565 Kgs (9.8%) through van sales and 6,889,864 Kgs (8%) through walk-ins or factory-based direct sales.

Table 2: Maize Flour Distribution

S/NO.	MILLER	GENERAL TRADE	RETAIL & MODERN TRADE	VAN SALES	WALK-INS	TOTAL
1.	Alpha Grain Millers	-	-	-	-	-
2.	Bellamy Milling Co. Limited	501,408	541,248	48,960	3,240	1,094,856
3.	Buffalo Millers Limited	620,260	316,242	-	851,178	1,787,680
4.	Capwell Industries Limited	4,437,373	2,496,228	-	17,400	6,951,001
5.	Eastern Flour Mills	285,233	86,490	-	127,588	499,311
6.	Eldoret Grains Limited	1,167,681	1,114,256	266,422	469,545	3,017,904
7.	Goldleaf Kenya Limited	855,557	18,648	-	41,304	915,509
8.	Grain Industries Limited	42,696	66,840	4,716	20,496	134,748
9.	Isinya Investments Limited	697,200	343,200	-	-	1,040,400
10.	Jahazi Millers Limited	1,661,976	-	-	-	1,661,976
11.	Kabansora Millers Limited	3,210,532	-	-	52,668	3,263,200
12.	Karibu Flour Mills Ltd	1,434,264	-	-	5,568	1,439,832
13.	Kensalrise Limited	1,796,444	1,449,289	51,816	52,148	3,349,697
14.	Kitale Industries Limited	1,336,254	56,030	-	681,040	2,073,324
15.	Kitui Flour Mills Limited	227,968	5,549,526	5,135,846	1,368,267	12,281,607
16.	Lukenya Flour Mills	46,248	-	-	-	46,248
17.	Mama Millers Limited	298,852	447,950	199,480	147,632	1,093,914
18.	Max Grains Limited	2,847,246	596,845	-	79,719	3,523,810
19.	Mombasa Maize (NRB) Ltd.	4,611,001	837,006	17,342	18,161	5,483,510
20.	Mombasa Maize Millers Kisumu Limited	641,968	70,656	-	355,682	1,068,306

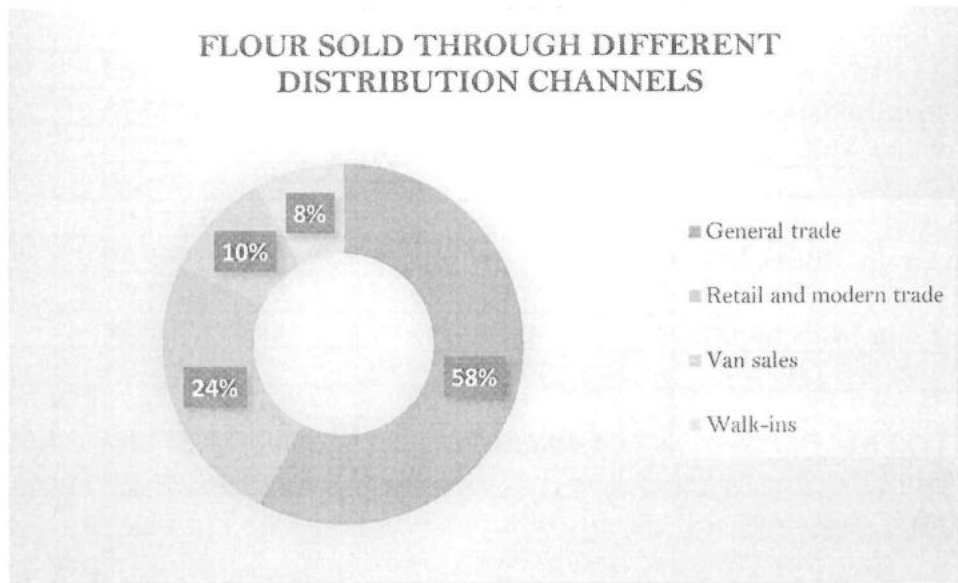
S/NO.	MILLER	GENERAL TRADE	RETAIL & MODERN TRADE	VAN SALES	WALK-INS	TOTAL
21.	Mombasa Maize Millers Ltd.	7,729,298	1,570,806	2,572,199	1,673,477	13,545,780
22.	Osho Grain Millers Limited	406,608	227,184	22,080	9,336	665,208
23.	Pembe Flour Mills Limited	5,083,352	1,756,198	-	576,937	7,416,487
24.	Unga Limited	1,950,917	1,143,680	1,008	121,251	3,216,856
25.	United Millers Limited	859,997	667,398	-	-	1,527,395
26.	Ustawi Grain Millers Limited	-	-	72,696	-	72,696
27.	Wakulima Flour Millers Ltd.	1,221,336	91,680	-	49,272	1,362,288
28.	Afraha Flour Mills Limited	1,518,936	-	-	8,928	1,527,864
29.	Trident Millers Limited	-	1,319,280	-	148,704	1,467,984
GRAND TOTAL		49,417,293	20,908,448	8,392,565	6,889,864	85,608,170

Source: Cereal Millers' Association

Table 3: Percentage of flour sold through different distribution channels

S/NO.	ITEM	QUANTITY	PERCENTAGE
1.	General trade	49,417,293	57.73
2.	Retail and modern trade	20,908,448	24.42
3.	Van sales	8,392,565	9.80
4.	Walk-ins	6,889,864	8.05
TOTAL		85,608,170	100

The pie chart below illustrates the information in table three above.



60. **The amount of money that the government owes for the supply of maize:** Members of CMA reported to have supplied 85,608,170 Kgs of maize flour worth KSh. 4,495,356,547.12. The millers were paid KSh. 1,905,845,377.07 leaving a balance of KSh. 2,589,511,170.05. Table 3 shows a breakdown of the money paid and what is owed to CMA.

Table 4: Outstanding payment to CMA

S/NO.	NAME OF MILLER	TOTAL AMOUNT	PAID	OUTSTANDING
1.	Alpha Grain Millers	214,183,473.22	147,677,237.34	66,506,235.88
2.	Bellamy Milling Co. Limited	57,492,713.32	51,316,081.04	6,176,632.28
3.	Buffalo Millers Limited	93,871,057.12	84,611,719.94	9,259,337.18
4.	Capwell Industries Limited	365,007,966.28	277,185,309.00	87,822,657.28
5.	Eastern Flour Mills	26,219,549.19	20,534,932.34	5,684,616.85
6.	Eldoret Grains Limited	158,473,155.86	0.00	158,473,155.86
7.	Goldleaf Kenya Limited	48,074,666.87	48,074,666.87	0.00
8.	Grain Industries Limited	7,074,576.80	163,836.40	6,910,740.40
9.	Isinya Investments Limited	54,633,138.00	36,916,121.76	17,717,016.24
10.	Jahazi Millers Limited	87,273,108.72	68,973,843.12	18,299,265.60
11.	Kabansora Millers Limited	171,355,975.64	171,355,975.64	0.00
12.	Karibu Flour Mills Ltd	75,607,978.04	53,398,063.60	22,209,914.44
13.	Kensalrise Limited	175,898,117.07	136,215,792.65	39,682,324.42
14.	Kitale Industries Limited	108,849,621.57	14,865,573.60	93,984,047.97
15.	Kitui Flour Mills Limited	644,930,860.77	0.00	644,930,860.77
16.	Lukenya Flour Mills	2,428,559.56	0.00	2,428,559.56
17.	Mama Millers Limited	57,443,211.00	4,644,392.00	52,798,819.00
18.	Max Grains Limited	185,040,895.70	159,769,918.75	25,270,976.95
19.	Mombasa Maize (NRB) Ltd.	287,947,895.46	45,435,947.48	242,511,947.98

20.	Mombasa Maize Millers Kisumu Limited	56,098,881.87	0.00	56,098,881.87
21.	Mombasa Maize Millers Ltd.	711,288,911.17	30,157,620.00	681,131,291.17
22.	Osho Grain Millers Limited	34,931,180.73	34,931,180.73	0.00
23.	Pembe Flour Mills Limited	389,451,714.00	295,146,399.00	94,305,315.00
24.	Unga Limited	168,917,109.96	27,988,298.20	140,928,811.76
25.	United Millers Limited	80,191,889.09	18,115,753.02	62,076,136.07
26.	Ustawi Grain Millers Limited	3,817,388.12	1,828,666.28	1,988,721.84
27.	Wakulima Flour Millers Ltd.	71,535,990.52	46,184,777.01	25,351,213.51
28.	Afraha Flour Mills Limited	80,230,685.07	62,712,793.52	17,517,891.55
29.	Trident Millers Limited	77,086,276.40	67,640,477.78	9,445,798.62
TOTAL		4,495,356,547.12	1,905,845,377.07	2,589,511,170.05

Source: Cereal Millers' Association

61. **How the distribution of maize flour was done under the Programme, how it was managed and any possible list of retail outlets that flour reached:** CMA reported that a multi-agency task force was put in place to oversee the successful implementation of the Programme.

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

62. The Committee held a follow up meeting with CMA to clarify on some outstanding issues on 21st June 2023. CMA was represented by Wamae and Allen Advocates who, unfortunately, did not aptly respond to the questions raised by the Committee (*annex 13*).

4.2 GRAIN MILL OWNERS' ASSOCIATION

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

63. The Grain Mill Owners Association (GMOA) is the umbrella Association of medium and small-scale millers in Kenya. The Association represented their membership in the Maize Flour Subsidy Programme and had three representatives in the Programme's oversight implementation committee. From their written submissions, the committee extracted the following answers to the questions on the Inquiry questions and sought clarifications from their chairman:
64. **How the millers who participated in the process were identified from the totality in the sector:** The membership of the GMOA was not involved in the initial discussions and actual negotiations of the programme contracts, contents, limitations and processes, while CMA was part and parcel of the process from the beginning. The chairman of GMOA, was called by the CS, MOALFC after meetings with CMA had taken place and had to burn the midnight oil in making urgent arrangements to have the membership of GMOA incorporated into the Subsidy Programme. The Programme was later opened to all millers (through their associations), who registered their interest to participate in and signed contracts with the Ministry of Agriculture, Livestock, Fisheries and Cooperatives. Their report indicated that it was suspected that the membership of the GMOA

were not preferred to participate in the programme but called in the last minute after realization that they would cause problems if they complained about the whole arrangement.

65. The millers signed individual contracts with the Ministry of Agriculture, Livestock, Fisheries and Cooperatives after submitting the following documents to the multi-agency team: certificate of incorporation, PIN certificate of the company, tax compliance certificate, AFA certificate of registration, VAT registration certificate, KEBS certificate for use of the standard mark of quality, KEBS certificate for product fortification, valid trade license and CR 12 (directors and shareholders details).

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

Every participating miller signed an individual contract with the Government through the MoALFC. The contract had the following clauses: contracting parties; scope of the sifted maize flour subsidy programme; verification of sale; pricing and calculation of the subsidy; price of the subsidy and terms of payment; warranties by the MoALFC and miller; assignment; effective date and contract duration; performance bond; governing laws; settlement of disputes; amendments; validity of provisions/severability; representation and warranties; termination of contract; and waiver.

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

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

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

Millers under GMOA distributed their flour countrywide. The flour supplied under the Subsidy Programme was 124,143,928 kgs which translates to about 34% of the monthly demand in the country (Kenya consumes an average of four million bags equivalent to 360,000,000 Kgs of maize monthly).

Table 5: Maize Flour Distribution by Region

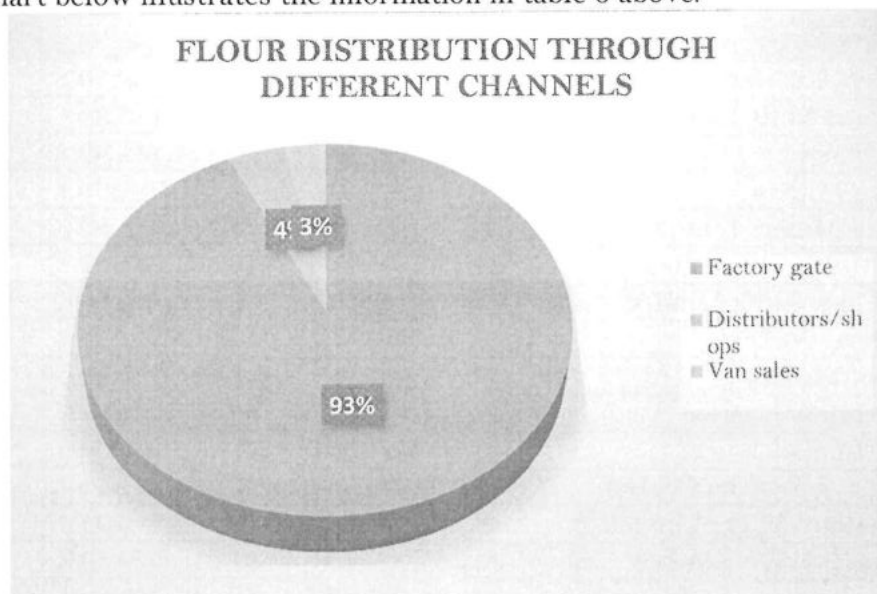
S/NO.	QUANTITY (KSH.)				
	REGION	FACTORY GATE	DISTRIBUTORS /SHOPS	VAN SALES	TOTAL
1.	Athi River	42,533,956	1,829,417	457,354	44,820,728
2.	Bungoma	14,177,985	609,806	457,354	15,245,146
3.	Busia	12,618,407	542,727	407,045	13,568,180
4.	Embu	44,093,534	1,896,496	1,422,372	47,412,403
5.	Isiolo	42,250,396	1,817,221	1,362,916	45,430,534
6.	Kajiado	30,057,329	1,292,788	969,591	32,319,708

S/NO.	QUANTITY (KSH.)				
	REGION	FACTORY GATE	DISTRIBUTORS /SHOPS	VAN SALES	TOTAL
7.	Kericho	14,036,205	603,708	452,781	15,092,694
8.	Kilifi	14,319,765	615,904	461,928	15,397,597
9.	Kirinyaga	99,245,897	4,268,641	3,201,481	106,716,019
10.	Kitui	13,837,714	595,170	446,378	14,879,262
11.	Machakos	43,101,075	1,853,810	1,390,357	46,345,242
12.	Matuu	13,965,316	600,659	450,494	15,016,468
13.	Maua	30,482,668	1,311,083	983,312	32,777,063
14.	Meru	141,779,853	6,098,058	4,573,544	152,451,455
15.	Mombasa	14,461,545	622,002	466,501	15,550,048
16.	Murang'a	70,889,927	3,049,029	2,286,772	76,225,728
17.	Nairobi	396,983,589	17,074,563	12,805,922	426,864,074
18.	Naivasha	56,995,501	2,451,419	1,838,565	61,285,485
19.	Nakuru	146,033,249	6,281,000	4,710,750	157,024,999
20.	Nanyuki	24,102,575	1,036,670	777,502	25,916,747
21.	Nyahururu	12,618,407	542,727	407,045	13,568,180
22.	Nyeri	59,547,538	2,561,184	1,920,888	64,029,611
23.	Thika	75,143,322	3,231,971	2,423,978	80,799,271
24.	Webuye	9,924,590	426,864	320,148	10,671,602
GRAND TOTAL		1,423,200,345	61,212,918	44,994,980	1,529,408,243

Table 6: Percentage of flour sold through different distribution channels

S/NO.	ITEM	QUANTITY	PERCENTAGE
1.	Factory gate	1,423,200,345	93.06
2.	Distributors/shops	61,212,918	4
3.	Van sales	44,994,980	2.94
TOTAL		1,529,408,243	100

The pie chart below illustrates the information in table 6 above.



69. **The amount of money that the government owes for the supply of maize:** Members of the Association were owed KSh. 399,552,095.37 by the Government. The table below shows the money paid and the amount owed to the GMOA membership.

Table 7: Outstanding payments to GMOA Millers

S/NO.	NAME OF MILLER	TOTAL AMOUNT	PAID	OUTSTANDING
1.	Aliesta Foods Limited	11,664,150.34	8,986,634.94	2,677,515.40
2.	Amani Flour Mills	14,411,457.27	4,449,144.06	9,962,313.21
3.	Bora Foods Supplies	18,938,161.36	14,948,996.89	3,989,164.47
4.	Cateress Milling Co. Ltd.	17,257,836.35	11,056,516.31	6,201,320.04
5.	Centaur Milling Enterprises	28,474,766.40	19,853,190.80	8,621,575.60
6.	Daiga Millers Limited	9,729,506.75	5,434,527.46	4,294,979.29
7.	Dandora Millers	31,749,996.40	25,608,458.30	6,141,538.10
8.	Doyen Venture Group Limited	13,275,992.85	9,084,491.95	4,191,500.90
9.	Faeroe Investments Limited	23,741,154.79	17,078,054.39	6,663,100.40
10.	Faulu Flour Mills Limited	60,983,903.96	36,874,591.30	24,109,312.66
11.	FM Agricultural Stores Limited	28,261,778.96	11,919,698.46	16,342,080.50
12.	Fuka Foods Limited	960,333.34	0.00	960,333.34
13.	Golden Flamingo Ent. Limited	15,067,605.49	13,178,776.88	1,888,828.61
14.	Grainden Millers Limited	99,163,372.30	83,415,921.10	15,747,451.20
15.	Grainuts Craft Limited	4,454,122.24	1,008,117.22	3,446,005.02
16.	Homegrown Millers Limited	28,595,753.00	8,179,217.00	20,416,536.00
17.	Jasiri Flour Mills Limited	8,440,095.16	4,610,104.20	3,829,990.96
18.	Joint Link Traders	22,807,287.50	14,005,491.60	8,801,795.90

S/NO.	NAME OF MILLER	TOTAL AMOUNT	PAID	OUTSTANDING
19.	Jolex Millers Limited	45,573,375.70	24,199,026.70	21,374,349.00
20.	Kajiado Flour Mills Limited	52,718,361.86	30,234,116.80	22,484,245.06
21.	Kensam Millers	22,048,649.04	20,324,795.80	1,723,853.24
22.	Kitale Corn Millers	7,766,947.91	5,700,088.65	2,066,859.26
23.	Kiwa Maize Millers Limited	39,725,191.30	26,640,188.80	13,085,002.50
24.	Lizbrand Multicare Limited	24,110,214.60	16,621,630.02	7,488,584.58
25.	Lowland Flour Mills Limited	11,076,540.91	7,612,090.80	3,464,450.11
26.	Mexico Maize Millers	12,002,940.59	7,065,942.11	4,936,998.48
27.	Muki Grain Millers	12,555,850.48	6,691,389.20	5,864,461.28
28.	Muranja Millers Limited	47,778,475.36	36,354,036.80	11,424,438.56
29.	Mwanga Millers	3,862,124.00	0.00	3,862,124.00
30.	Mwanzo Mpya Trading Co. Ltd.	34,910,175.80	26,084,434.40	8,825,741.40
31.	Naicia Upendo Millers Limited	12,167,513.50	10,154,536.25	2,012,977.25
32.	Naku Modern Feeds Limited	35,295,032.13	24,210,870.39	11,084,161.74
33.	Nelco Millers Limited	68,169,697.30	26,449,780.30	41,719,917.00
34.	Novena Maize Millers	3,305,757.50	777,853.30	2,527,904.20
35.	Nguvu Zaidi Limited	16,687,946.25	9,994,726.98	6,693,219.27
36.	Pawa Grain Millers	10,327,003.65	8,378,826.75	1,948,176.90
37.	Plytech Supplies	36,655,350.60	25,051,307.00	11,604,043.60
38.	Posho Poa Industries Limited	7,463,378.25	6,341,729.00	1,121,649.25
39.	Range Processors Limited	27,802,585.70	19,530,179.40	8,272,406.30
40.	Shalem Invest Limited	72,149,588.50	60,421,859.40	11,727,729.10
41.	Simba Mfalme Millers Limited	17,930,415.35	16,670,135.35	1,260,280.00
42.	Smartcorn Maize Flour	22,834,053.00	22,564,053.00	270,000.00
43.	Solai Grain Handlers Limited	39,223,694.38	30,338,720.40	8,884,973.98
44.	Thenducat Enterprise Limited	45,164,653.70	32,172,428.00	12,992,225.70
45.	Ustadi Grain Millers Limited	39,772,332.29	36,558,617.54	3,213,714.75
46.	Uwezo Maize Millers Limited	82,782,749.80	80,129,860.40	2,652,889.40
47.	Vine Foods Limited	11,216,492.13	10,422,515.16	793,976.97
48.	Wasam Poshomil Enterprise	2,691,845.40	1,770,266.90	921,578.50
49.	Western Delux Maize Co. Ltd.	27,451,496.87	18,734,562.10	8,716,934.77
50.	Zsema Millers	4,121,095.20	3,301,913.40	819,181.80
51.	Zuri Millers Limited	6,565,187.15	5,126,645.80	1,438,541.35
TOTAL		1,341,883,990.66	940,620,971.11	395,562,930.90

Source: Grain Mill Owners' Association

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

71. **Impact of non-payment on millers:** Most milling companies in the Association are family businesses with limited financial resources. The delayed payment of the amount owed by the Government have had the following effects on some of them:
- i. Some are facing closure due to debt burden, auctioneers and lack of money to buy new maize stocks.
 - ii. Job losses.
 - iii. Operational losses due to reduced operational capacity.
 - iv. Broken families due to financial difficulties and mental health issues.
 - v. High prices to consumers due to the unavailability of locally produced flour.
 - vi. Reduced faith in Government partnerships.

4.3 MINISTRY OF AGRICULTURE AND LIVESTOCK DEVELOPMENT

In a meeting held on Wednesday, 22nd March 2023 and on Monday, 19th June 2023, Hon. Mithika Linturi, Cabinet Secretary, Ministry of Agriculture and Livestock Development informed the committee that between January and April 2022, the country was facing an acute shortage of maize which in turn led to the increase in the prices of sifted maize flour to retail at an average of KSh. 190 to KSh. 215 per 2-kilogram packet. In light of the above, the government decided to cushion consumers from the high prices by allocating resources to finance the Maize Flour Subsidy Programme. He responded to the Committee's questions as follows (*annex 15*):

72. **Identification of the millers who participated in the Programme:** The CS for National Treasury and Planning held meetings on the 15th and 20th of July 2022 to discuss the Maize Flour Subsidy Programme. Willing millers from the Cereal Millers Association and Grain Mill Owners Association were requested to express their interest by submitting their particulars. The millers who met the requirements entered into an agreement with the Ministry of Agriculture, Livestock, Fisheries and Cooperatives.
73. **How the contracts were awarded to the identified millers and the requisite safeguards:** The contracts were awarded to millers who met the set conditions for the supply of subsidized maize flour.

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

74. **The amount of maize flour that was supplied under the Programme:** The total amount of maize flour supplied by millers under the Programme was 121,714,844 Kgs.
75. **How payment was structured and who was paid what amount:** The contract provided that millers were to be paid every 5th calendar day upon submission of the relevant documents. A total of 119 millers supplied the subsidized maize flour across the country. The millers were paid KSh. 3,366,999,497 for distributing 121,714,844 Kgs of maize flour. The pending amount is KSh. 3,023,029,817.
76. **How distribution was managed:** Millers were responsible for milling and distributing subsidized maize flour. Officers were stationed at the contracted millers' premises to monitor daily activities including dispatch of the flour to retail outlets. The Ministry of Interior and Coordination of

National Government and officers from KRA had the responsibility of ensuring delivery of the flour to the last mile.

Breakdown of the money already spent on the Subsidy programme

77. The analysis below shows how the KSh. 4 billion that was paid to millers under Article 223 of the Constitution was spent:

Table 8: Funds allocated to the Maize Flour Subsidy Programme

ITEM	DETAILS	AMOUNT (KSH.)	EXPENDITURE (KSH.)
2520199	Subsidies to Non-Financial Private Enterprises	3,367,000,000	3,366,999,498
2211335	Monitoring and Evaluation Expenses	100,000,000	100,000,000
3120101	Maize and Beans (Pending Bills)	533,000,000	532,0966,071
TOTAL		4,000,000,000	3,999,095,569

Source: The Ministry of Agriculture and Livestock Development

78. From the above table, millers were paid KSh. 3,366,999,498 for the 121,714,844 Kgs of sifted maize flour that they supplied in the Maize Flour Subsidy Programme for FY 2022/23.

79. The table below shows distribution of the KSh. 3,366,999,498 that was paid to millers under the Maize Flour Subsidy Programme for FY 2022/23.

Table 9: Amount paid to Millers for the Maize Flour Subsidy Programme

S/NO.	MILLER	KGS SUPPLIED	INVOICE AMOUNT	PAID AMOUNT	PENDING AMOUNT
1.	Abyssinia Limited	138,350.73	7,263,413	7,263,413.20	0.00
2.	Afraha Flour Mills Limited	1,516,200.85	79,600,544.65	62,712,792.65	16,887,752.00
3.	Agape Grain Millers	346,805.07	18,207,265.95	18,207,265.95	0.00
4.	Aliesta Foods Limited	222,174.29	11,664,150.18	8,986,634.95	2,677,515.23
5.	Alpha Grain Millers	4,079,685.21	214,183,473.68	147,677,237.80	66,506,235.88
6.	Amami Flour Mills	274,503.67	14,411,442.42	4,449,144.05	9,962,298.37
7.	Beadia Millers Limited	189,463.88	9,946,853.50	9,946,853.50	0.00
8.	Bellamy Milling Co. Ltd.	1,095,099.30	57,492,713.33	51,316,081.05	6,176,632.28
9.	Bora Foods Supplies	360,726.37	18,938,134.44	14,948,996.95	3,989,137.49
10.	Buffalo Millers Limited	1,788,020.13	93,871,056.88	84,611,719.70	9,259,337.18
11.	Capwell Industries Limited	6,952,533.24	365,007,995.13	277,185,308.85	87,822,686.28
12.	Cateress Milling Co. Ltd.	328,722.24	17,257,917.42	11,056,516.30	6,201,401.12
13.	Centaur Milling Enterprises	542,376.50	28,474,766.13	19,853,190.65	8,621,575.48
14.	Chaggo Milling	1,920.43	100,822.40	100,822.40	0.00
15.	Chesna Enterprises Ltd.	436,608.99	22,921,972.20	22,921,972.20	0.00
16.	Cornbelt Millers Limited	298,978.96	15,696,395.52	14,041,175.45	1,655,220.07
17.	Cornstar Maize Millers Company Limited	599,042.77	31,449,745.20	31,449,745.20	0.00
18.	County Corn Mills	50,160.03	2,633,401.40	2,633,401.40	0.00
19.	Daddy Millers Limited	623,008.28	32,707,934.50	24,819,742.65	7,888,191.85
20.	Daiga Millers Limited	185,323.94	9,729,506.62	5,434,527.45	4,294,979.17
21.	Dandora Millers	604,929.88	31,758,818.80	25,608,458.65	6,150,360.15
22.	Doyen Venture Group Ltd	252,072.65	13,233,814.14	9,651,317.90	3,582,496.24
23.	Eastern Flour Mills	499,420.00	26,219,550.00	20,534,933.15	5,684,616.85
24.	Ecospatt Enterprises	169,621.69	8,905,138.50	8,905,138.50	0.00
25.	Eldoret Grains Limited	3,012,449.69	158,153,608.64	0.00	158,153,608.64
26.	Everest Industries Limited	149,892.22	7,869,341.75	7,869,341.75	0.00
27.	Faeroe Investments Ltd.	452,212.47	23,741,154.61	17,078,054.25	6,663,100.36

S/NO.	MILLER	KGS SUPPLIED	INVOICE AMOUNT	PAID AMOUNT	PENDING AMOUNT
28.	Faulu Flour Mills Limited	1,161,598.16	60,983,903.40	36,874,590.85	24,109,312.55
29.	Festive Flour Millers	76,168.92	3,998,868.50	3,998,868.50	0.00
30.	FM Agricultural Stores Ltd.	538,319.60	28,261,778.91	11,919,728.15	16,342,050.76
31.	Food Security Millers Ltd.	303,242.68	15,920,240.90	14,975,030.90	945,210.00
32.	Fuka Foods Limited	18,292.06	960,333.35	0.00	960,333.35
33.	Gateco Foods Kenya Ltd.	124,155.58	6,518,168.20	6,518,168.20	0.00
34.	Golden Flamingo Ent. Ltd	287,158.20	15,075,805.47	13,178,776.90	1,897,028.57
35.	Goldleaf Kenya Limited	915,707.94	48,074,666.80	48,074,666.80	0.00
36.	Grainden Millers Limited	1,888,826.08	99,163,369.00	83,415,919.85	15,747,449.15
37.	Grain Industries Limited	134,753.84	7,074,576.80	163,836.40	6,910,740.40
38.	Grainuts Craft Limited	84,839.66	4,454,082.19	1,008,117.20	3,445,964.99
39.	Halisi Maize Mills Limited	182,032.45	9,556,703.77	3,356,126.35	6,200,577.42
40.	Homegrown Millers Ltd.	501,471.41	26,327,249.20	8,179,217.20	18,148,032.00
41.	Ineet Millers Limited	198,812.17	10,437,638.90	10,437,638.90	0.00
42.	Ithae Enterprises Limited	11,522.37	604,924.40	604,924.40	0.00
43.	Isinya Investments Limited	1,040,631.20	54,633,137.94	36,916,121.70	17,717,016.24
44.	Jahazi Millers Limited	1,662,344.93	87,273,108.60	68,973,843.00	18,299,265.60
45.	Jasiri Flour Mills Limited	160,763.72	8,440,095.10	7,299,541.70	1,140,553.40
46.	Joint Link Traders	434,424.52	22,807,287.22	14,005,491.70	8,801,795.52
47.	Jolex Millers Limited	868,064.29	45,573,375.00	24,199,026.20	21,374,348.80
48.	Kabansora Millers Limited	3,263,923.34	171,355,975.55	171,355,975.55	0.00
49.	Kajiado Flour Mills Ltd.	971,015.73	50,978,325.90	30,234,117.10	20,744,208.80
50.	Karibu Flour Mills Ltd.	1,367,127.74	71,774,206.44	49,564,292.00	22,209,914.44
51.	Karibu Maize Millers Ltd	139,788.42	7,338,891.90	7,338,891.90	0.00
52.	Kensalrise Limited	3,350,440.32	175,898,116.57	136,215,792.15	39,682,324.42
53.	Kensam Millers	419,974.27	22,048,648.96	20,324,796.00	1,723,852.96
54.	Kitale Corn Millers	147,941.86	7,766,947.80	5,700,088.60	2,066,859.20
55.	Kitale Industries Limited	2,073,326.12	108,849,621.25	14,865,573.60	93,984,047.65
56.	Kitui Flour Mills Limited	12,232,904.09	642,227,464.60	0.00	642,227,464.60
57.	Kiwa Maize Millers Ltd.	756,670.31	39,725,191.48	26,640,189.00	13,085,002.48
58.	Laser Solutions Limited	221,389.14	11,622,929.82	8,684,588.70	2,938,341.12

S/NO.	MILLER	KGS SUPPLIED	INVOICE AMOUNT	PAID AMOUNT	PENDING AMOUNT
59.	Limy Millers Enterprises	857,688.17	45,028,628.85	34,608,962.20	10,419,666.65
60.	Lizbrand Multicare Ltd.	459,242.17	24,110,313.71	16,621,629.95	7,488,583.76
61.	Lowland Flour Mills Ltd.	195,379.40	10,257,418.62	7,612,090.90	2,645,327.72
62.	Lukenya Flour Mills	46,258.28	2,428,559.56	0.00	2,428,559.56
63.	Mama Millers Limited	1,083,204.01	56,868,210.47	4,644,392.00	52,223,818.47
64.	Max Grains Limited	3,524,516.47	185,037,114.75	159,766,137.80	25,270,976.95
65.	Menengai Grain Millers Limited	36,085.87	1,894,508.00	1,894,508.00	0.00
66.	Mexico Maize Millers	228,627.44	12,002,940.53	7,065,942.10	4,936,998.43
67.	Mombasa Maize (Nairobi) Limited	14,565,054.80	764,665,376.92	39,744,545.60	724,920,831.32
68.	Mombasa Maize Millers Kisumu Limited	4,494,301.44	235,950,825.72	35,849,021.50	200,101,804.22
69.	Mombasa Maize Millers Ltd.	1,068,550.13	56,098,881.87	0.00	56,098,881.87
70.	Muki Grain Millers	239,501.92	12,573,850.54	6,691,389.20	5,882,461.34
71.	Muranja Millers Limited	910,066.19	47,778,474.90	36,354,036.70	11,424,438.20
72.	Mwanga Millers	73,564.27	3,862,124.03	0.00	3,862,124.03
73.	Mwanzo Mpya Trading Company Limited	664,955.73	34,910,175.64	26,084,434.80	8,825,740.84
74.	Naicia Upendo Millers Ltd.	231,762.16	12,167,513.20	10,225,111.90	1,942,401.30
75.	Naku Modern Feeds Ltd.	672,286.34	35,295,032.75	24,210,870.15	11,084,162.60
76.	Nelco Millers Limited	1,298,470.41	68,169,696.44	26,449,780.20	41,719,916.24
77.	Nice-Nacey Maize Millers Limited	732,529.70	38,457,809.30	38,457,809.30	0.00
78.	Novena Maize Millers	62,966.81	3,305,757.51	777,853.30	2,527,904.21
79.	Nguvu Zaidi Limited	317,865.64	16,687,946.14	9,994,727.00	6,693,219.14
80.	Osho Grain Millers Ltd.				
81.	Pan African Grain Millers Limited	41,601.23	2,184,064.50	2,184,064.50	0.00
82.	Pawa Grain Millers	196,704.83	10,327,003.75	8,378,826.75	1,948,177.00
83.	Pembe Flour Mills Limited	7,418,127.88	389,451,713.80	295,146,398.80	94,305,315.00
84.	Plytech Supplies	698,196.77	36,655,330.65	25,051,307.05	11,604,023.60

S/NO.	MILLER	KGS SUPPLIED	INVOICE AMOUNT	PAID AMOUNT	PENDING AMOUNT
85.	Posho Poa Industries Ltd.	142,159.58	7,463,378.10	6,341,728.90	1,121,649.20
86.	Raiya Flour Mills	347,013.25	18,218,195.75	16,299,959.65	1,918,239.10
87.	Range Processors Limited	529,573.07	27,802,586.00	19,530,179.55	8,272,406.45
88.	Rift Grain Logistics Ltd.	514,002.09	26,985,109.50	26,985,109.50	0.00
89.	Roy Millers Limited	1,418,635.15	74,478,345.47	72,626,994.15	1,851,351.32
90.	Ruai Millers Limited	14,019.11	736,003.40	736,003.40	0.00
91.	Salama Millers & Grain Dealers Limited	142,141.97	7,462,453.35	7,462,453.35	0.00
92.	Shalem Invest Limited	1,374,277.86	72,149,587.87	60,421,859.15	11,727,728.72
93.	Shilak Millers	96,357.41	5,058,763.80	5,058,763.80	0.00
94.	Simba Mfalme Millers Ltd.	341,531.72	17,930,415.25	16,670,135.25	1,260,280.00
95.	Smartcorn Maize Flour	429,791.49	22,564,053.00	22,564,053.00	0.00
96.	Soko Sawa Limited	85,398.96	4,483,445.20	4,483,445.20	0.00
97.	Solai Grain Handlers Ltd.	747,117.99	39,223,694.40	30,338,720.40	8,884,974.00
98.	Southrift Grain Millers Ltd	78,377.41	4,114,814.10	4,114,814.10	0.00
99.	Sweet Meal Commodities Ltd.	112,133.49	5,887,008.44	5,052,772.95	834,235.49
100.	Thenducat Enterprise Ltd.	860,279.13	45,164,654.32	32,172,427.80	12,992,226.52
101.	Top Meal Industries Ltd.	134,949.95	7,084,872.40	7,084,872.40	0.00
102.	Trident Millers Limited	1,468,310.03	77,086,276.35	67,640,477.75	9,445,798.60
103.	Ukweli Flour Mills Ltd.	145,623.11	7,645,213.15	7,645,213.15	0.00
104.	Umoja Flour Mills Ltd.	61,352.36	3,220,998.75	3,220,998.75	0.00
105.	Unga Limited	3,217,465.88	168,916,958.60	27,988,298.20	140,928,660.40
106.	United Millers Limited	1,527,528.56	80,195,249.65	18,115,752.90	62,079,496.75
107.	Ustadi Grain Millers Ltd.	757,568.23	39,772,331.85	36,558,617.85	3,213,714.00
108.	Ustawi Grain Millers Ltd.	72,712.15	3,817,388.09	1,828,666.25	1,988,721.84
109.	Uwezo Maize Millers Ltd.	1,627,153.51	85,425,559.35	82,772,669.95	2,652,889.40
110.	Valleyland Millers Co. Ltd.	1,091,095.90	57,282,534.85	57,282,534.85	0.00
111.	Vine Foods Limited	213,647.46	11,216,491.55	10,422,515.15	793,976.40
112.	Wagmwa Millers	127,367.99	6,686,819.65	6,686,819.65	0.00
113.	Wakulima Flour Millers Ltd	1,362,590.29	71,535,990.46	46,184,776.95	25,351,213.51
114.	Wasam Posho Mill Enterprise	51,273.25	2,691,845.40	1,770,266.90	921,578.50

S/NO.	MILLER	KGS SUPPLIED	INVOICE AMOUNT	PAID AMOUNT	PENDING AMOUNT
115.	Webuye Grain Millers Ltd.	407,115.83	21,373,581.00	6,741,733.00	14,631,848.00
116.	Western Delux Maize Company Limited	522,885.65	27,451,496.66	18,734,562.10	8,716,934.56
117.	Zsema Millers	78,497.05	4,121,095.20	3,301,913.20	819,182.00
118.	Zuri Millers Limited	124,098.80	6,515,187.21	5,126,645.80	1,388,541.41
	TOTAL	121,714,844.10	6,390,029,315.63	3,366,999,497.95	3,023,029,817.68

Source: The Ministry of Agriculture and Livestock Development

80. The table below shows a breakdown of the KSh. 532,096,071.25 that was paid as pending bills for the Maize Flour Subsidy Programme for FY 2017/18:

Table 10: Breakdown of Payment of KSh. 532,096,071.25

S/NO.	NAME OF MILLER	AMOUNT
1.	Wamae and Allen Advocates (Legal Fees)	41,377,919.40
2.	Kitui Flour Mills	75,724,579.95
3.	Capwell Industries	249,079,267.50
4.	Kabansora Millers	8,311,959.55
5.	Karibu Flour Mills	22,917,379.40
6.	Unga Limited	121,053,285.00
7.	Osho Grain Millers	13,631,680.45
TOTAL		532,096,071.25

Source: Ministry of Agriculture and Livestock Development

81. The table below shows the breakdown of KSh. 100,000,000 that was paid to the National Cereals and Produce Board.

Table 11: Breakdown of the money paid to NCPB

S/NO.	DESCRIPTION	AMOUNT (KSH.)
1.	Ministry of Interior	4,925,00.00
2.	National Administrative Command Centre and Regional Oversight Teams under the State Department for Crop Development and Agricultural Research	24,685,177.00
3.	NCPB Teams verifying and supervising the Maize Flour Subsidy Programme	42,384,265.00
4.	Other administrative and managerial logistics overheads incurred by NCPB	28,005,558.00
TOTAL		100,000,000.00

Source: Ministry of Agriculture and Livestock Development

4.4 THE NATIONAL TREASURY AND ECONOMIC PLANNING

82. In a letter, Ref: AG/3/037 Vol. V/(38) dated 26th April 2023 (*annex 16*), the National Treasury stated that all the activities of the Maize Flour Subsidy Programme were overseen by the State Department for Crop Development and Agricultural Research. The only role played by the National Treasury was to grant approval under Article 223 of the Constitution for an additional budget of KSh. 4 billion to the State Department of Crop Development and Agricultural Research out of a request of KSh. 9.12 billion. The KSh. 4 billion was to cater for part payment of the monies owed to millers under the Maize Flour Subsidy Programme.
83. Authority to withdraw the money from the Consolidated Fund was sought from the Controller of Budget as required by Section 17(4) and (5) of the Public Finance Management Act, 2012 and the funds were released to the State Department in two batches: KSh. 2 billion on 28th July 2022; and KSh. 2 billion on 4th August 2022.

4.5 OFFICE OF THE ATTORNEY GENERAL AND DEPARTMENT OF JUSTICE

84. In a letter, Ref: AG/CONF/6/B/18/1 dated 16th May 2023 (*annex 17*), the Office of the Attorney General informed the Committee that the Ministry of Agriculture, Livestock, Fisheries and Cooperatives wrote to the Office requesting for a review of the draft contract that would be signed between the Ministry and individual millers for the Maize Flour Subsidy Programme.
85. The Office issued comments after reviewing the draft contract and requested the Ministry to note and furnish the Office with copies of the signed contracts for their information and records but the letter was not responded to.
86. Further, the Ministry of Agriculture, Livestock, Fisheries and Cooperatives sought the Office's advice relating to the suspension of the Maize Flour Subsidy Programme. The Office responded that:
- i. Article 7.2 of the contract provides that the duration of the contracts shall be an initial period of four weeks from the date of commencement and may be extended by mutual consent of the parties. There is no provision for suspension of the contracts.
 - ii. Article 14.2 of the contract provides that the Ministry may terminate the contract immediately should it be ascertained that the concerned miller has supplied sifted maize flour that does not conform to the standards set by KEBS. There is no provision under Article 14 for termination based on inadequate exchequer releases from the National Treasury.
 - iii. Article 4.3 states that the contracts are contingent on the creation and funding of the Maize Flour Subsidy Account. In view of this, the Office guided that non-provision of funding for the Programme during the contract period may form a merited basis for legal action for breach of the contract in relation to the outstanding invoices. As of the close of business on 12th August 2022, the State Department had received invoices worth KSh. 2.98 billion out of which KSh. 1.62 billion had been paid to the millers. The State Department is under a contractual duty to pay the outstanding invoices.
 - iv. Article 14.4 of the contract provides that the millers concerned will be entitled, in addition to terminating the contracts, to general and liquidated damages and interest on the delayed payments (at the government rate of interest on a pro-rata basis accruing from the first date

of default). The award of the general and liquidated damages and the attendant interest will be dependent on the proof of loss that the millers will demonstrate in legal proceedings.

- v. Given the foregoing, the Office advised that if the Ministry is unable to continue with the contracts on account of insufficient budget, the outstanding invoices should be paid as they are already a contractual liability. The Ministry may thereafter engage the millers with a view of amicably terminating the contracts for the remainder of the contractual period to avert the risk of litigation that may result in general and liquidated damages against the Ministry.

4.6 INDEPENDENT MILLERS

87. The Committee held a meeting with millers who had participated in the Programme independently on 30th August 2023 to seek information on why they had decided to participate in the Programme independently as opposed to most of their colleagues who had taken part in the Programme under Associations. The Committee also wanted to find out why most of these millers had been paid in full.
88. Some of these millers were hostile to the Committee, simply because they had nothing to lose, in view of the fact that they had received all their dues. The same did not assist the Committee in drawing useful conclusions.
89. The Committee resolved to conduct independent verification in form of surveys in the neighbourhoods of the contracted millers to establish whether, upon announcement of the availability of 2 Kg packets of maize flour at KSh. 100, neighbouring consumers flocked the milling plants' premises to buy the maize flour. Through this, the Committee got very useful results. The idea was to establish that some Kenyans benefitted from the subsidized maize flour, which therefore proved the value for money aspect of the Inquiry.

CHAPTER FIVE

5 COMMITTEE FINDINGS/OBSERVATIONS

In conducting the Inquiry, the Committee made the following observations after analysis of the documents submitted by the stakeholders:

5.1 GENERAL OBSERVATIONS

1. There was a disconnect between the President's speech and the adopted implementation framework of the Subsidy Programme. The President's announcement did not have time limitation, a complete departure from the Ministry's decision to have the same run for one month. It also did not indicate cost reduction through payment to millers but majored on duty waivers.
2. Before H.E. the President released the Fifth Stimulus Package focusing on food subsidies on 20th July 2022, stakeholders, including the Cereal Millers' Association had prompted the government to take action on the issue of soaring maize flour prices. Despite the prompts by the sector players for the Government to intervene early enough to avert a crisis, the Government waited until the last few days to the General Elections to implement the Subsidy Programme which was suspicious in view of the hotly contested elections. The possible remedial measures proposed by CMA included:
 - a) The CMA letter dated 22nd March 2022 (*annex 18*) proposed the following interventions: allowing alternative origins for wheat (India specifically); removal of duty and levies on wheat, maize and rice for a period of six months to one year; allowing GMO maize into the country for 6 months to one year; and incentivising farmers to grow more locally produced maize and wheat through reduction of taxes and levies and subsidised inputs.
 - b) The CMA letter dated 13th April 2022 (*annex 19*) informed the CS, MOALFC that the Association was unable to get adequate quantities of maize and requested for the Ministry's urgent intervention.
 - c) The CMA letter dated 22nd April 2022 (*annex 20*) raised a number of concerns regarding maize supply trends in the market and proposed the following interventions: all good quality maize held by farmers and traders be availed to millers; free flow of maize through borders with Tanzania including requesting the Government of Tanzania to release about one million bags from their food reserves to Kenya; the Government to hold bilateral discussions with the Zambian Government to release maize to Kenya and assist with logistics of getting the maize into Kenya; and duty free waiver to registered millers to import maize through registered associations.
 - d) The CMA letter dated 22nd June 2022 (*annex 21*) informed the MOALFC of the maize situation in the country which highlighted the price scenario, supply scenario and sourcing constraints. They proposed interventions similar to those outlined under (c).
 - e) The CMA letter of 29th June 2022 (*annex 22*) to the CS, MOALFC proposed the following interventions to control food price inflation and ensure food security: Removal of duty on wheat and rice for a period of six months to one year; waiver of all C60 import requirements for wheat to avoid any delays in documentation; management of local wheat raw material prices to avoid escalation in the cost of final products; allowing alternative origins for wheat (India specifically);

and incentivising farmers to grow more locally produced maize and wheat by reducing taxes and levies and subsidising inputs.

From the above letters, the Committee observed that the interventions to bring down prices of maize flour were sought to last until there was enough maize in the country but not for the one month that was put in place by the Government. As such, the advisory was valid and genuine but the approach was inappropriate and inadequate.

3. Some of the millers (eleven) who participated in the Programme were neither members of the Cereal Millers Association nor the Grain Mill Owners' Association. They opted to participate in the Programme independently.
4. The Office of the Attorney-General reviewed the draft contract and submitted comments on the same to the MOALFC but the Ministry did not review the contract as proposed by the Office of the AG. The fact that the Ministry ignored the advice from the Office of the Attorney-General on the contract implied that the Ministry was hell-bent to execute a contract that left loopholes as opposed to a comprehensive and protective one.
5. Article 3.4 of the Contract signed between millers and MOALFC (*annex 23*) exonerated millers from any form of blame for post factory management of the milled maize flour, implying that millers were not to blame whether the 2 Kg packets were sold at KSh. 100 or the prevailing retail prices then.

Additionally, the MOALFC Factsheet provided that millers would continue with the normal distribution of the maize flour. The Ministry deliberately absolved millers from any form of responsibility by decreeing that use of their normal distribution channels would amount to sustaining sales at the set subsidy price.

6. Most of the millers claimed to have acquired money from financial institutions to fund the Subsidy Programme implying that whatever is in arrears is accruing some interest and penalties as well. In the Maize Subsidy Programme for FY 2017/18, the MOALFC hesitated to pay the interest accrued on the outstanding payment and the matter was reported to the Nairobi Centre for International Arbitration. The sole arbitrator, Mr. John M. Ohaga, ruled that the millers be paid interest calculated as simple interest for the entire period under consideration in the matter of Alpha Grain Millers Limited, Kabansora Millers Limited, Kitui Flour Millers Limited, Mombasa Millers Limited, Pembe Millers Limited and Unga Limited.
7. A report from KEBS on the quality of sampled maize flour from the outlets would have informed the Committee on the availability of the same in the shelves and possible spread but the same was not submitted to the Committee by the Ministry of Agriculture and Livestock Development who were custodians of all documents related to the Subsidy Programme.
8. Although the Ministry of Interior and Coordination of National Government was charged with the responsibility of ensuring delivery of the subsidised maize flour to the last mile, the MOALFC had no report of such deliveries. The Committee was also not given the ToRs used to commission the Ministry of Interior and Coordination of the National Government.
9. The Ministry of Agriculture, Livestock, Fisheries and Cooperatives was responsible for deploying market surveillance teams to ensure that the flour was sold at the maximum recommended retail price of KSh. 100 per 2 Kg packet. No report on the surveillance of the distribution of the milled

maize flour, to ascertain that the selling price remained KSh. 100 per 2 Kg packet of sifted maize flour was submitted to the Committee by the MoALD.

10. There were no discussions on the quantities to be supplied while the accounting bit lay on the extent to which a milling company was able to prove their supplies through submission of verified documents to the Ministry for payment. As such, a milling company could supply as much as possible as long as they were able to show documentary proof that they followed the right channels in acquisition of the maize grain, milled the same and sold it out. In the absence of quantitatively determined supply contracts, unscrupulous suppliers were open to the loophole of adjusting figures to maximize on the gains as long as they convinced Ministry officials that they had made the supplies. It was also possible for some suppliers to produce reports that were based on no supplies as long as they had a contract.
11. The Ministry of Agriculture and Livestock submitted a list of one hundred and nineteen (119) contracts to the Committee. The Committee established that South Rift Millers Limited signed the contract but did not participate in the Subsidy Programme.
12. The number of packets of maize flour that one could purchase under the Programme was not capped. This may have made it possible for unscrupulous buyers to purchase lots of maize flour at the Subsidy price and retail at higher prices after the Programme.
13. CMA, who commanded about a third of the maize flour supply in Kenya took the greater share of the subsidy in quantitative terms compared to GMOA.
14. 95.10% of the maize flour sold by GMOA under the Subsidy Programme can be traced to consumers as it was sold directly to them at factory gates (93.06%) and through van sales (2.94%). On the other hand, only 17.85% of the maize flour sold by members of that was CMA was sold directly to consumers through van sales (9.80%) and walk-ins (8.05%).
15. There was a balance of KSh. 1,228,917,747.58 owed to NCPB on account of the Maize Flour Subsidy Programme for FY 2017/18. The money was owed to farmers (KSh. 516,673,179.86) and agency fees (KSh. 712,244,567.72). This debt was still unpaid at the point of concluding this report. The reason why the Ministry appears inclined to not paying debts they owe on account of subsidy programmes needs to be established.
16. Of the KSh. 3,999,095,569 that was paid for the Subsidy Programme, KSh. 3,366,999,498 was paid to millers, KSh. 100,000,000 was paid to NCPB as monitoring and evaluation expenses and KSh. 532,096,071 was paid to millers as pending bills to clear the interest accrued on the balances from the Subsidy Programme for FY 2017/18.
17. A total of 121,714,844 Kgs of sifted maize flour amounting to KSh. 6,390,029,315.63 was supplied by millers in the Maize Flour Subsidy Programme. A total of KSh. 3,366,999,497.95 million was paid to the millers leaving a balance of KSh. 3,023,029,817.68.

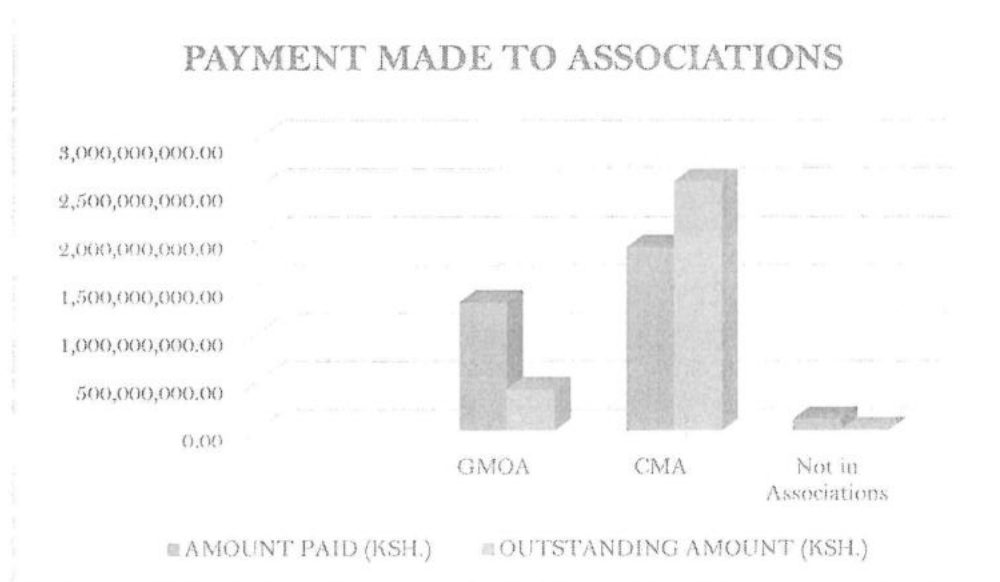
Millers under GMOA were paid KSh. 1,337,050,526.28 leaving a balance of KSh. 432,751,316.30 (less interest), millers under CMA were paid KSh. 1,905,645,377.07 leaving a balance of KSh. 2,589,511,170.05 (without interest) while independent millers were paid KSh. 121,971,471.65 leaving a balance of KSh. 11,824,505.35 (without interest).

Table 12: Comparison between the amount paid to the three groups of millers (GMOA, CMA and millers not in associations) and the outstanding balances.

S/NO.	ASSOCIATION	AMOUNT PAID (KSH.)	OUTSTANDING AMOUNT (KSH.)
1.	GMOA	1,337,050,526.28	432,751,316.30
2.	CMA	1,905,845,377.07	2,589,511,170.05
3.	Independent Millers	121,971,471.65	11,824,505.35
TOTAL		3,364,867,375.00	3,034,086,991.70

Source: Stakeholders' submissions

The bar graph below illustrates the information in the above table.



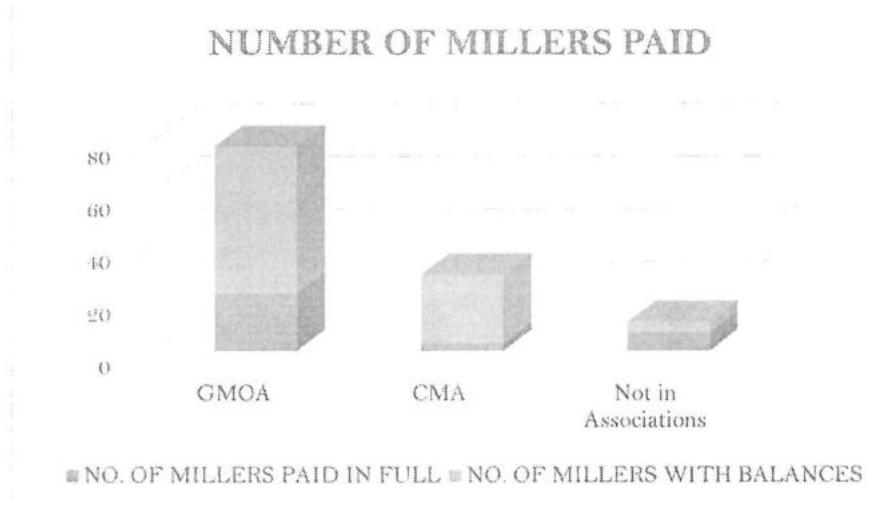
18. A total of 32 out of the 118 millers that participated in the Subsidy Programme had their dues fully cleared. A closer look however reveals that 7 out of 11 (63.64%), of those independent millers, 3 out of 29 (10.34%) of the members of CMA, and 22 out of 78 (28.21%) of the members of GMOA had their dues cleared during the period of the Subsidy.

Table 13: Comparison between payments made to millers in the three groups (GMOA, CMA and independent millers)

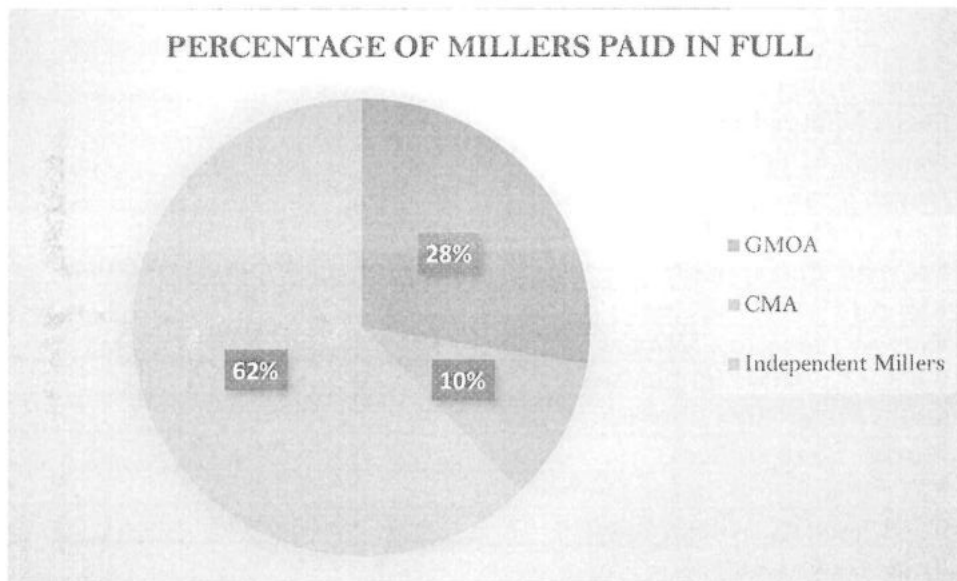
S/NO.	ASSOCIATION	NO. OF MILLERS PAID IN FULL	NO. OF MILLERS WITH BALANCES	PERCENTAGE OF MILLERS PAID IN FULL
1.	GMOA	22	56	28.21%
2.	CMA	3	26	10.34%
3.	Independent Millers	7	4	63.64%
TOTAL		32	86	

Source: Submissions by stakeholders

The bar graph below illustrates the information in the table above.



The pie chart below further illustrates the above information.



19. Of the one hundred and eighteen (118) millers that participated in the Programme, seventy-eight (78) were members of the Grain Mill Owners' Association, twenty-nine (29) were members of the Cereal Millers Association while the remaining eleven (11) were independent millers. The table below shows a breakdown of the above information.

Table 14: Millers that participated in the Subsidy Programme

S/NO.	NAME OF MILLER	ASSOCIATION
1.	Abysinia Limited	Not in Association
2.	Afraha Flour Mills Limited	CMA
3.	Agape Grain Millers	GMOA
4.	Aliesta Foods Limited	GMOA

S/NO.	NAME OF MILLER	ASSOCIATION
5.	Alpha Grain Millers	CMA
6.	Amani Flour Mills	GMOA
7.	Beadu Millers Limited	GMOA
8.	Bellamy Milling Company Limited	CMA
9.	Bora Foods Supplies	GMOA
10.	Buffalo Millers Limited	CMA
11.	Capwell Industries Limited	CMA
12.	Cateress Milling Co. Ltd.	GMOA
13.	Centaur Milling Enterprises	GMOA
14.	Chaggo Milling	Not in Association
15.	Chesna Enterprises Limited	GMOA
16.	Cornbelt Millers Limited	GMOA
17.	Cornstar Maize Millers Company Limited	GMOA
18.	County Corn Mills	Not in Association
19.	Daddy Millers Limited	GMOA
20.	Daiga Millers Limited	GMOA
21.	Dandora Millers	GMOA
22.	Doyen Venture Group Limited	GMOA
23.	Eastern Flour Mills	CMA
24.	Ecospatt Enterprises	Not in Association
25.	Eldoret Grains Limited	CMA
26.	Everest Industries Limited	GMOA
27.	Faeroe Investments Limited	GMOA
28.	Faulu Flour Mills Limited	GMOA
29.	Festive Flour Millers	GMOA
30.	FM Agricultural Stores Limited	GMOA
31.	Food Security Millers Limited	GMOA
32.	Fuka Foods Limited	GMOA
33.	Gatco Foods Kenya Limited	GMOA
34.	Golden Flamingo Ent. Limited	GMOA
35.	Goldleaf Kenya Limited	CMA
36.	Grainden Millers Limited	GMOA
37.	Grain Industries Limited	CMA
38.	Grainuts Craft Limited	GMOA
39.	Halisi Maize Mills Limited	Not in Association
40.	Homegrown Millers Limited	GMOA
41.	Ineet Millers Limited	GMOA
42.	Ithae Enterprises Limited	GMOA
43.	Isinya Investments Limited	CMA
44.	Jahazi Millers Limited	CMA
45.	Jasiri Flour Mills Limited	GMOA
46.	Joint Link Traders	GMOA
47.	Jolex Millers Limited	GMOA
48.	Kabansora Millers Limited	CMA
49.	Kajiado Flour Mills Limited	GMOA

S/NO.	NAME OF MILLER	ASSOCIATION
50.	Karibu Flour Mills Ltd	CMA
51.	Karibu Maize Millers Limited	Not in Association
52.	Kensalrise Limited	CMA
53.	Kensam Millers	GMOA
54.	Kitale Corn Millers	GMOA
55.	Kitale Industries Limited	CMA
56.	Kitui Flour Mills Limited	CMA
57.	Kiwa Maize Millers Limited	GMOA
58.	Laser Solutions Limited	Not in Association
59.	Limy Millers Enterprises	GMOA
60.	Lizbrand Multicare Limited	GMOA
61.	Lowland Flour Mills Limited	GMOA
62.	Lukenya Flour Mills	CMA
63.	Mama Millers Limited	CMA
64.	Max Grains Limited	CMA
65.	Menengai Grain Millers Limited	Not in Association
66.	Mexico Maize Millers	GMOA
67.	Mombasa Maize (Nairobi) Limited	CMA
68.	Mombasa Maize Millers Kisumu Limited	CMA
69.	Mombasa Maize Millers Limited	CMA
70.	Muki Grain Millers	GMOA
71.	Muranja Millers Limited	GMOA
72.	Mwanga Millers	GMOA
73.	Mwanzo Mpya Trading Company Limited	GMOA
74.	Naicia Upendo Millers Limited	GMOA
75.	Naku Modern Feeds Limited	GMOA
76.	Nelco Millers Limited	GMOA
77.	Nice-Nicey Maize Millers Limited	GMOA
78.	Novena Maize Millers	GMOA
79.	Nguvu Zaidi Limited	GMOA
80.	Osho Grain Millers Limited	CMA
81.	Pan African Grain Millers Limited	GMOA
82.	Pawa Grain Millers	GMOA
83.	Pembe Flour Mills Limited	CMA
84.	Plytech Supplies	GMOA
85.	Posho Poa Industries Limited	GMOA
86.	Raiya Flour Mills	GMOA
87.	Range Processors Limited	GMOA
88.	Rift Grain Logistics Limited	GMOA
89.	Roy Millers Limited	Not in Association
90.	Ruai Millers Limited	GMOA
91.	Salama Millers & Grain Dealers Limited	GMOA
92.	Shalem Invest Limited	GMOA
93.	Shilak Millers	GMOA
94.	Simba Mfalme Millers Limited	GMOA

S/NO.	NAME OF MILLER	ASSOCIATION
95.	Smartcorn Maize Flour	GMOA
96.	Soko Sawa Limited	GMOA
97.	Solai Grain Handlers Limited	GMOA
98.	Southrift Grain Millers Limited	Not in Association
99.	Sweet Meal Commodities Limited	Not in Association
100.	Thenducat Enterprise Limited	GMOA
101.	Top Meal Industries Limited	GMOA
102.	Trident Millers Limited	CMA
103.	Ukweli Flour Mills Limited	GMOA
104.	Umoja Flour Mills Limited	GMOA
105.	Unga Limited	CMA
106.	United Millers Limited	CMA
107.	Ustadi Grain Millers Limited	GMOA
108.	Ustawi Grain Millers Limited	CMA
109.	Uwezo Maize Millers Limited	GMOA
110.	Valleyland Millers Company Limited	GMOA
111.	Vine Foods Limited	GMOA
112.	Wagmwa Millers	GMOA
113.	Wakulima Flour Millers Limited	CMA
114.	Wasam Poshomil Enterprise	GMOA
115.	Webuye Grain Millers Limited	GMOA
116.	Western Delux Maize Company Limited	GMOA
117.	Zsema Millers	GMOA
118.	Zuri Millers Limited	GMOA

Source: Submissions by CMA, GMOA and MoALD

5.2 GRAIN MILL OWNERS' ASSOCIATION

The Committee made the following observations on GMOA, that:

20. Seventy-eight (78) millers under the Association participated in the Subsidy Programme different from the figure of fifty-one (51) that had been submitted by the Association in the meeting with the Committee. This was because the letter inviting the Association to the meeting had requested them to submit names of millers who had outstanding payments. The Association had also inadvertently omitted names of five (5) millers who participated in the Programme under GMOA.
21. Although the membership of GMOA control over 60% of the maize flour supplied in Kenya, they were not part of the initial discussions on the Subsidy Programme. This raises the question of equitability in the distribution of the Subsidy Programme, especially bearing in mind that small and medium scale millers mainly supply to the densely populated parts of the country, where they sell more through direct/walk-in sales as opposed to structured distributorship.
22. The total amount of money paid to the Association was **KSh. 1,337,050,526.28** while the outstanding balance on account of the Maize Flour Subsidy Programme for FY 2022/23 was **KSh. 432,751,316.30**.

23. Of the seventy-eight (78) millers in the Association that participated in the Programme, invoices of twenty-two (22) millers were paid in full while two millers (Fuka Foods Limited and Mwanga Millers) had not received any payment for the sifted maize flour that they supplied.

Table 15: Members of GMOA, Invoiced Amount, Amount Paid and Balance

S/NO.	MILLER	INVOICED AMNT (KSH.)	PAID AMOUNT (KSH.)	BALANCE
1.	Agape Grain Millers	18,207,265.95	18,207,265.95	0.00
2.	Aliesta Foods Limited	11,664,150.34	8,986,634.94	2,677,515.40
3.	Amani Flour Mills	14,411,457.27	4,449,144.06	9,962,313.21
4.	Beada Millers Limited	9,946,853.50	9,946,853.50	0.00
5.	Bora Foods Supplies	18,938,161.36	14,948,996.89	3,989,164.47
6.	Cateress Milling Co. Ltd.	17,257,836.35	11,056,516.31	6,201,320.04
7.	Centaur Milling Enterprises	28,474,766.40	19,853,190.80	8,621,575.60
8.	Chesna Enterprises Limited	22,921,972.20	22,921,972.20	0.00
9.	Cornbelt Millers Limited	15,696,595.00	14,041,175.00	1,655,220.00
10.	Cornstar Maize Millers Co. Ltd.	31,449,745	31,449,745.20	0.00
11.	Daddy Millers Limited	32,707,934.50	24,819,742.65	7,888,191.85
12.	Daiga Millers Limited	9,729,506.75	5,434,527.46	4,294,979.29
13.	Dandora Millers	31,749,996.40	25,608,458.30	6,141,538.10
14.	Doyen Venture Group Limited	13,275,992.85	9,084,491.95	4,191,500.90
15.	Everest Industries Limited	7,869,341.75	7,869,341.75	0.00
16.	Faeroe Investments Limited	23,741,154.79	17,078,054.39	6,663,100.40
17.	Faulu Flour Mills Limited	60,983,903.96	36,874,591.30	24,109,312.66
18.	Festive Flour Millers	3,998,868.50	3,998,868.50	0.00
19.	FM Agricultural Stores Ltd.	28,261,778.96	11,919,698.46	16,342,080.50
20.	Food Security Millers Limited	15,920,240.88	14,975,030.85	945,210.03
21.	Fuka Foods Limited	960,333.34	0.00	960,333.34
22.	Gatco Foods Kenya Limited	6,518,168.20	6,518,168.20	0.00
23.	Golden Flamingo Ent. Limited	15,067,605.49	13,178,776.88	1,888,828.61
24.	Grainden Millers Limited	99,163,372.30	83,415,921.10	15,747,451.20
25.	Grainuts Craft Limited	4,454,122.24	1,008,117.22	3,446,005.02
26.	Homegrown Millers Limited	28,595,753.00	8,179,217.00	20,416,536.00
27.	Ineet Millers Limited	10,437,638.90	10,437,638.90	0.00
28.	Ithae Enterprises Limited	604,924.40	604,924.40	0.00
29.	Jasiri Flour Mills Limited	8,440,095.16	4,610,104.20	3,829,990.96
30.	Joint Link Traders	22,807,287.50	14,005,491.60	8,801,795.90
31.	Jolex Millers Limited	45,573,375.70	24,199,026.70	21,374,349.00
32.	Kajiado Flour Mills Limited	52,718,361.86	30,234,116.80	22,484,245.06
33.	Kensam Millers	22,048,649.04	20,324,795.80	1,723,853.24
34.	Kitale Corn Millers	7,766,947.91	5,700,088.65	2,066,859.26
35.	Kiwa Maize Millers Limited	39,725,191.30	26,640,188.80	13,085,002.50

S/NO.	MILLER	INVOICED AMNT (KSH.)	PAID AMOUNT (KSH.)	BALANCE
36.	Limy Millers Enterprises	45,028,628.70	34,608,961.80	10,419,666.90
37.	Lizbrand Multicare Limited	24,110,214.60	16,621,630.02	7,488,584.58
38.	Lowland Flour Mills Limited	11,076,540.91	7,612,090.80	3,464,450.11
39.	Mexico Maize Millers	12,002,940.59	7,065,942.11	4,936,998.48
40.	Muki Grain Millers	12,555,850.48	6,691,389.20	5,864,461.28
41.	Muranja Millers Limited	47,778,475.36	36,354,036.80	11,424,438.56
42.	Mwanga Millers	3,862,124.00	0.00	3,862,124.00
43.	Mwanzo Mpya Trading Co. Ltd.	34,910,175.80	26,084,434.40	8,825,741.40
44.	Naicia Upendo Millers Limited	12,167,513.50	10,154,536.25	2,012,977.25
45.	Naku Modern Feeds Limited	35,295,032.13	24,210,870.39	11,084,161.74
46.	Nelco Millers Limited	68,169,697.30	26,449,780.30	41,719,917.00
47.	Nice-Nicey Maize Millers Ltd.	38,457,809.30	38,457,809.30	0.00
48.	Novena Maize Millers	3,305,757.50	777,853.30	2,527,904.20
49.	Nguvu Zaidi Limited	16,687,946.25	9,994,726.98	6,693,219.27
50.	Pan African Grain Millers Ltd.	2,184,064.50	2,184,064.50	0.00
51.	Pawa Grain Millers	10,327,003.65	8,378,826.75	1,948,176.90
52.	Plytech Supplies	36,655,350.60	25,051,307.00	11,604,043.60
53.	Posho Poa Industries Limited	7,463,378.25	6,341,729.00	1,121,649.25
54.	Raiya Flour Mills	18,218,195.78	16,299,956.77	1,918,239.01
55.	Range Processors Limited	27,802,585.70	19,530,179.40	8,272,406.30
56.	Rift Grain Logistics Limited	26,985,109.50	26,985,109.50	0.00
57.	Ruai Millers Limited	736,003.40	736,003.40	0.00
58.	Salama Millers & Grain Dealers Ltd.	7,462,453.35	7,462,453.35	0.00
59.	Shalem Invest Limited	72,149,588.50	60,421,859.40	11,727,729.10
60.	Shilak Millers	5,058,763.80	5,058,763.80	0.00
61.	Simba Mfalme Millers Limited	17,930,415.35	16,670,135.35	1,260,280.00
62.	Smartcorn Maize Flour	22,564,053.00	22,564,053.00	0.00
63.	Soko Sawa Limited	4,483,445.20	4,483,445.20	0.00
64.	Solai Grain Handlers Limited	39,223,694.38	30,338,720.40	8,884,973.98
65.	Thenducat Enterprise Limited	45,164,653.70	32,172,428.00	12,992,225.70
66.	Top Meal Industries Limited	7,084,872.40	7,084,872.40	0.00
67.	Ukweli Flour Mills Limited	7,645,213.15	7,645,213.15	0.00
68.	Umoja Flour Mills Limited	3,220,998.75	3,220,998.75	0.00
69.	Ustadi Grain Millers Limited	39,772,332.29	36,558,617.54	3,213,714.75
70.	Uwezo Maize Millers Limited	82,782,749.80	80,129,860.40	2,652,889.40
71.	Valleyland Millers Co. Ltd.	57,282,534.85	57,282,534.85	0.00
72.	Vine Foods Limited	11,216,492.13	10,422,515.16	793,976.97

S/NO.	MILLER	INVOICED AMNT (KSH.)	PAID AMOUNT (KSH.)	BALANCE
73.	Wagmwa Millers	6,686,819.65	6,686,819.65	0.00
74.	Wasam Poshomil Enterprise	2,691,845.40	1,770,266.90	921,578.50
75.	Webuye Grain Millers Ltd.	21,373,590.60	6,741,733.00	14,631,857.60
76.	Western Delux Maize Co. Ltd.	27,451,496.87	18,734,562.10	8,716,934.77
77.	Zsema Millers	4,121,095.20	3,301,913.40	819,181.80
78.	Zuri Millers Limited	6,565,187.15	5,126,645.80	1,438,541.35
TOTAL		1,769,802,042.37	1,337,050,526.28	432,751,316.30

5.3 CEREAL MILLERS' ASSOCIATION

24. Twenty-nine (29) members of the Association participated in the Maize Flour Subsidy Programme for FY 2022/23.
25. From the response submitted to the Departmental Committee on Agriculture and Livestock on 10th March 2023, CMA stated that twenty-nine (29) members of the Association participated in the Subsidy Programme contrary to the twenty-seven (27) indicated in their letter (*annex 24*). CMA explained that the number changed because two (2) millers, Trident Millers Limited and Afraha Flour Millers Limited joined the Association later. The amount claimed also changed from KSh. 2,562,547,479.80 to KSh. 2,589,511,170.05 after incorporation of the KSh. 26,963,690 owed to the two milling companies. The explanation provided by CMA to the Committee on the inclusion of the two millers in their list was not satisfactory.
26. The total invoiced amount by the Association is **KSh. 4,495,356,547.12** out of which **KSh. 1,905,845,377.07** has been paid and there is an outstanding balance of **KSh. 2,589,511,170.05**.
27. Of the twenty-nine (29) millers in the Association that participated in the Programme, four (4) millers (Eldoret Grains Limited, Kitui Flour Mills Limited, Lukenya Flour Mills and Mombasa Maize Millers Kisumu Limited) had not received any payment for the flour that they supplied. On the other hand, three (3) millers (Goldleaf Kenya Limited, Kabansora Millers Limited and Osho Grain Millers Limited) had received their payment in full. The information above is illustrated in Table 3 under Part Four of this Report.
28. CMA wrote the following letters with regards to the amount of money owed to them on account of the Subsidy Programme for FY 2022/23:
 - a) A letter to the CS, NT&P on 1st September 2022 (*annex 24*) specifying that the amount paid to them for the Subsidy Programme was KSh. 1,767,822,739 and the outstanding amount was KSh. 2,570,241,572. The letter stated that the number of millers that participated in the Programme was twenty-seven (27). The situation was discussed in a meeting held on 9th September 2022 (*annex 25*) between the PS and CMA. CMA wrote a letter to the PS MOALFC on 14th September 2022 (*annex 26*) requesting for a meeting to check the status of pending invoices before closure of the command centre.
 - b) A letter to among others, Head of the Public Service, CS for NT&P and CS for MOALFC on 3rd October 2022 (*annex 27*) referring to their letter of 1st September 2022 written to the National Treasury citing the outstanding bill as KSh. 2,567,613,257 with an accrued interest of KSh. 37,775,447 totalling to KSh. 2,605,338,704.
 - c) A letter to the CS for NT&P, CS for MOALFC and CS for Trade, Investment and Industry (*annex 28*) informing them that the balance owed to the Association for the Subsidy Programme was KSh. 2,567,613,257. The interest was KSh. 100,978,235 making it a total of KSh. 2,668,591,492. A reminder letter by the Association written on 25th January 2023 (*annex 29*) revised the interest to KSh. 130,308,025 making the total KSh. 2,697,971,282.
29. Members of CMA, led by Afraha Flour Mills Limited approached the Nairobi Centre for International Arbitration (NCIA) seeking for arbitration in pursuit of their pending dues (*annex 30*). The GoK paid the court awards on the outstanding dues to the millers accruing from the Subsidy

Programme for the FY 2017/18 (*annex 31*). The arbitration was occasioned by delayed payment of the FY 2017/18 Maize Subsidy Programme dues to the millers.

30. An arbitration sought by the millers on the outstanding dues arising from the Maize Flour Subsidy Programme for FY 2022/23 was registered as per the notice from the registrar (*annex 32*).

5.4 INDEPENDENT MILLERS

31. Eleven (11) millers who participated in the Programme were neither members of the GMOA nor CMA. They participated in the Programme as independent millers.
32. The total invoiced amount for the independent millers was **KSh. 133,795,977** out of which **KSh. 121,971,471.65** has been paid leaving a balance of **KSh. 11,824,505.35**.
33. Of the eleven (11) millers, seven (7) millers (Abysinia Limited, Chaggo Milling, County Corn Mills, Ecospatt Enterprises, Karibu Maize Millers Limited, Menengai Grain Millers and Southrift Grain Millers Limited) were paid in full.

Table 16: The table below illustrates the above information

S/NO.	MILLER	INVOICED AMOUNT (KSH.)	PAID AMOUNT (KSH.)	BALANCE (KSH.)
1.	Abysinia Limited	7,263,413.20	7,263,413.20	0.00
2.	Chaggo Milling	100,822.40	100,822.40	0.00
3.	County Corn Mills	2,633,401.40	2,633,401.40	0.00
4.	Ecospatt Enterprises	8,905,138.50	8,905,138.50	0.00
5.	Halisi Maize Mills Limited	9,556,703.77	3,356,126.35	6,200,577.42
6.	Karibu Maize Millers Limited	7,338,891.90	7,338,891.90	0.00
7.	Laser Solutions Limited	11,622,929.82	8,684,588.70	2,938,341.12
8.	Menengai Grain Millers Ltd.	1,894,508.00	1,894,508.00	0.00
9.	Roy Millers Limited	74,478,345.47	72,626,994.15	1,851,351.32
10.	Southrift Grain Millers Limited	4,114,814.10	4,114,814.10	0.00
11.	Sweet Meal Commodities Ltd.	5,887,008.44	5,052,772.95	834,235.49
TOTAL		133,795,977.00	121,971,471.65	11,824,505.35

CHAPTER SIX

6 COMMITTEE RECOMMENDATIONS

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

6.1 GENERAL RECOMMENDATIONS

1. In future related interventions, there should be clear interpretation layout of the Executive Order and the implementation arrangements clearly laid out for information to the actors as well as those who may wish to question the goings on relating to subsidy programmes by the Government.
2. The Cabinet Secretary, Ministry of Agriculture and Livestock Development should submit a report to the National Assembly within three months of adoption of this report by the House explaining:
 - i. the departure from what is interpreted as the President's focus on subsidising maize flour prices through duty waivers;
 - ii. how the decision to implement the Programme for a period of one month was arrived at;
 - iii. why the Programme was implemented a month to the General Elections;
 - iv. the actions that the Ministry took after several prompts by CMA on the maize and wheat situation in the country (if any)/reasons for inaction;
 - v. why a certain group of millers appeared to have been favoured in terms of payment compared to other millers;
 - vi. why the Ministry did not adopt the proposals made by the Attorney-General on the contract;
 - vii. why CMA was given preference to other millers with regards to the introductory meetings on the Maize Flour Subsidy Programme for FY 2022/23; and
 - viii. why the Ministry prefers not to clear subsidy related debts that accrue interest increasing costs to the government e.g. the Maize Subsidy Programme for FY 2017/18, the Maize Subsidy Programme for FY 2022/23 among others
3. The Auditor-General should conduct a special audit of the Maize Flour Subsidy Programme for FY 2022/23 to ascertain whether there was prudent use of public resources and submit the report to the National Assembly within three months of adoption of this report by the House.
4. The DCI should conduct the following investigations:
 - i. Whether the Subsidy Programme achieved the intended objective;
 - ii. Quality and quantity of the maize flour produced under the Programme, the price of the flour and where it was sold;
 - iii. If the Ministry of Interior and Coordination of National Government submitted a report to the MOALFC on the delivery of subsidised maize flour to the last mile;
 - iv. The NCPB was paid KSh. 100 million as monitoring and evaluation fee but did not submit the report on market surveillance to the Committee. An investigation should be conducted on whether NCPB conducted their role in the Subsidy Programme as expected; and
 - v. Milling companies to establish whether the flour that was said to have been supplied under the Subsidy Programme was actually milled.

6.2 THE GRAIN MILL OWNERS' ASSOCIATION

5. In its preliminary report on the Subsidy Programme, the Departmental Committee on Agriculture and Livestock recommended that the amount owed to the Grain Mill Owners' Association be factored in the Budget Estimates for FY 2023/24 and paid but this was not done. The Ministry of Agriculture and Livestock Development should factor the KSh. 432,751,326.30 owed to members of GMOA and the interest accrued on the outstanding amount calculated at the contractual rate in the Budget Estimates for FY 2024/25.

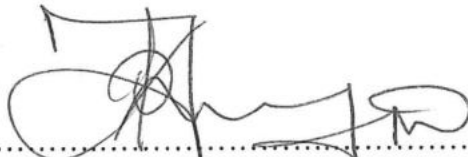
6.3 THE CEREAL MILLERS' ASSOCIATION

6. 82.17% of the total maize flour that was produced under the Subsidy Programme by CMA cannot be traced to the consumers based on the distribution channels (general trade and retail and modern trade). The Directorate of Criminal Investigations should conduct an investigation into this and present their findings to the National Assembly within three months of adoption of this report by the House. The National Assembly will make recommendations on whether or not the money owed to CMA should be paid and whether to ratify payments made to the Association through Article 223 of the Constitution or not.

6.4 INDEPENDENT MILLERS

7. The Directorate of Criminal Investigations should conduct investigations on how the flour produced by the independent millers was distributed and the quantities supplied and submit a report to the National Assembly within three months of adoption of this report. The National Assembly will make a decision on whether or not to ratify payments made to the millers under Article 223 of the Constitution and whether or not the balance owed to the millers should be paid.

SIGNED.....



DATE.....

27/2/2024

HON. (DR.) JOHN KANYUITHIA MUTUNGA, PhD, MP

CHAIRPERSON

DEPARTMENTAL COMMITTEE ON AGRICULTURE AND LIVESTOCK



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