



AGRICULTURE AND FOOD AUTHORITY
COFFEE DIRECTORATE

STAKEHOLDERS' COMMENTS ON THE COFFEE BILL 2020

SECTION	ISSUE/COMMENT RAISED	PROPOSED RECOMMENDATION	Comments by coffee Directorate team
2. Definitions <i>"dealer" means a person registered by a County Governments or the Board to deal with coffee as provided under this Act;</i>	Delete and retain the coffee dealer Replace it with "dealer" means a person, who or entity which buys clean coffee at the auction for himself or itself as an exporter or	Definition does not clearly explain the task and not aligned to the definition of "dealing in coffee" means acquiring, holding, selling, or exporting coffee for purposes of trade but does not include distributing or moving coffee from one area to another:	Comments adopted and incorporated
2. Definition <i>"coffee miller"</i>	<i>Amend the term to read commercial miller in order to align to the mandate set out in the bill.</i>	"commercial miller" means any person who mills on wholesale basis for the purpose of providing service for financial profit. Clarity on the term and role in the industry	<i>Adopted and incorporated</i>

2. Definitions <i>"miller's license" means a miller's license specified under Section 23</i>	Miller agent 1.1. Proposal definition of grower miller or commercial miller 1.2. Is it similar to commercial miller? 1.3. Clarity on role of the miller 1.4. Elaborate on the difference between commercial millers 1.4.1. License issuance	Section 23 deals with Coffee Research Institute. Align the miller licence to the substantive correct clause to elaborate the scope	Comment adopted and aligned accordingly
"packer" means any person who roasts, and packs roasted seed or ground coffee into packets or containers intended for sale in the local or export market;	Propose the deletion of the term packer.	The description fits the bill of coffee buyer, thus should be aligned to the term coffee buyer.	The comment was adopted
Interpretation	"dealer" Issue:	Registration should be done by National Government while production should be by County Government	adopted
Interpretation	marketing of coffee" means the offering for	Correction: offering for sale of clean coffee or buni by marketing	The comment was adopted

	sale of clean coffee by a marketing agent;		
Interpretation	<p>Nairobi Coffee Exchange" means the Nairobi Coffee Exchange established in Section at which Coffee is traded;</p> <p>Issue: Section is missing needs restructuring to protect interests of farmers</p>		The comment adopted and section corrected
Interpretation	<p>"smallholder" means a grower cultivating coffee in a small parcel or in small parcels of land and who does not possess his own pulping station;</p> <p>Issue: Small holder needs to be specified in previous estate <i>minimum was 5 acres but can be reduced to 3 acres</i></p>	Include specifics:	No merits as specifics will vary
Missing Interpretation	Fairtrade coffee is coffee that is certified		Not merit as this is just one of the certification schemes

	as produced to fair trade standards while serving producers and the environment and prohibiting damaging farming practices, and child labor or forced labor.		
SECTION 3(C)	The Bill grants the regulator powers to lend money which leads to duplicity in the legal sense since the Commodities Fund is tasked with the lending aspect under the sector.	The bill should be amended to state that there shall be a commodities Fund shall lend to the sector and players along the value chain so as to ensure availability of affordable farm inputs and finances to both the farmers and individuals along the value chain.	Adopted and lending role is deleted
4 b and c	Board representation	<p>The regions should be defined. I propose 2 regions East of Rift Valley and West of Rift Valley each represented by a director.</p> <p>The directors should undergo public vetting</p>	Has no merit as the regions are not defined in law.
4 (1)(a)	Composition of the Board	<p>A chairman appointed by the Cabinet Secretary from ...</p> <p>Issue: Should be a representative of coops or estate NOT trade organ only and add</p>	Trade representation deleted so not able to produce chairman of the Board

4(3)© Composition of the Board	Holds <u>a degree</u> from a university recognized in Kenya; Issue: Holds a degree will lock out farmers / estate representatives. Diploma instead	4(3)© Composition of the Board	No merit as the chairman of the Board needs to be learned to grasp issues.
4(7) Composition of the Board	The Cabinet Secretary shall make rules for nomination of the members of the Board under (b)(c) and (d) Issue: a) Mechanism for gender mainstreaming might be a challenge as farms are owned by men but managed by women and children	Add at the end: ...and provide for mechanisms to ensure that not more than two thirds of members so nominated are of the same gender.	Already provided for in the bill
Section 5 (d) <i>Cessation of membership of Board</i>	Stipulate the actual period under clause 5 (d) is incapacitated by prolonged physical or mental illness for a period of 6(six) months;	Stipulates expressly the period under which a board member may be absent from duty on account of illness	Has merit- adopted

<i>Role of the Board set up an information management system</i>	Manage the registration, licensing modalities, submission of applicable requirements. Establish and install adequate Information Management System (IMS) shall assist in the data collection and analysis.	Embracing technology and utilizing it to collate information and improve service delivery.	Use of ICT is already in place
Section 7- functions of the board	(1) The object and purpose for which the Board is established is to, <i>regulate</i> (central management) consultation with the county governments, promote competition in the coffee industry, production, processing, and branding of Kenya coffee locally and internationally, to regulate the coffee industry in the public interest. Insert 1(b) in consultation with the County Government register and regulate the stakeholders of the	Express mandate of the Coffee Board of Kenya to regulate the industry. Express provision on mandate safeguards misrepresentation during the enactment of the Act.	The comment has merit so its adopted

	<i>coffee industries in line with the Act.....</i>		
7 Functions of the Board	<p>The object and purpose for which the Board is established is to, in consultation with the county governments, promote competition in the coffee industry, production, processing and branding of Kenya coffee locally and internationally, and generally to regulate the coffee industry in the public interest. linkage with board, county government and farmers is weak</p> <p>Comment: Board should put mechanism to amplify the voice of the farmer as central player or heart of coffee</p>	<p>Include: Include productivity</p> <p>Promote coffee production in a socially and environmental responsible manner or manner that adapts and mitigates CC</p>	Adopted under county government functions
Section 4 The composition of the Board	To promote mainstreaming of biodiversity, environmental conservation and	inserting (j) <i>Principal Secretary responsible for the time being for environment</i> and (k) <i>2 representatives of conservation</i>	No merit as Mwongozo guideline is adopted

	climate change into the coffee sector	<i>organizations active in coffee growing regions.</i>	
Section 7(1)(i)	The Board shall establish standards on production, processing, transportation, packaging, blending , storage, preservation of Coffee and Coffee products;	<p>The coffee produced in Kenyan is consumed locally and globally. Hence governed by existing established international and local regulations, standards, and protocols.</p> <p>The coffee blend is advised by the demand of the market and buyer hence impractical to establish standards on blends.</p> <p>There is likelihood breach of both existing legislation and international standards and laws.</p> <p>Implementation of the said standard is likely to be unsustainable.</p>	No merit as blends are under the national quality standards
Powers of the Board Section 8. <i>The Board shall have all the powers necessary for the proper performance of its functions under this Act, including the power to—</i> <i>(a) impose a levy or levies upon growers, importers and buyers for the purposes of</i>	<p>Amend Section 8 (a) to read</p> <p><i>(a) impose a levy or levies upon growers, importers and buyers upon consideration of modalities and consultation of the industry. purposes of giving effect to the</i></p>	Engage the public and stakeholders in the process of setting levies, this is advised due to the adverse financial impact of the levies on the industry. Review annually to assess impact of introduced levies.	Consultation mechanisms are already in place

<i>giving effect to the provisions of this Act;</i>	<i>provisions of this Act.</i>		
13 Qualifications of the Managing Director	has at least 5 years' experience in a position of senior management Issue: This is not adequate for this level of management	has at least 10 years' experience in a position of senior management	No merit as the trend is 5 years
Section 15. <i>The Board may appoint and employ, on such terms and conditions as it may determine, agents to carry out any of its functions under this Act.</i>	Delete clause	Employees of the board as envisaged by section 10 adequate to perform the mandate of the Act. Scope of the agent not stipulated in the Act. Section 16, agent has not been included in the delegation list of authority of the Board.	Has merit. Its adopted and the agent defined.
Section 21 Liability of the Board for damages	Section 19 shall not relieve the Board of the liability to pay compensation to any person for any injury to <u>him, his</u> property or to any of his interests caused by the exercise of any power conferred by this Act or by the failure, whether wholly or partially, of any works. Issue:	Delete him, /his <i>Gender neutrality</i>	Gender neutrality has already been taken care of.

	Reference to male gender in the policy		
Section 23 "Coffee Research institute"	Buttressed	<p>Revamp and align provisions to the existing Coffee Research Institute. Output of the research programs relayed to the entire coffee industry stakeholders.</p> <p>Set up adequate structures to maximize on its potential.</p> <p>Council of the Coffee Research institute</p> <p>Representation on the Council of the Coffee Research institute:</p> <ul style="list-style-type: none"> ○ Farmers representative ○ MOA ○ Kephis ○ PCPB ○ COG ○ KEBS ○ Management – experts <p>Output of the research be assessed continuously with an aim of improving.</p>	Change coffee institute to foundation because Coffee research institute is already established under KALRO.
24 (1) Status and funding of the Institute	The Coffee Research Institute shall be autonomous in its operations,	Funding not well done. Autonomy is a good one	Adopted and funding for the foundation provided for.
25 (1) Functions of the Coffee Research Institute	the lead agency in coffee breeding; in the developing a climate resilient coffee crop and in leading the	A statement on GM technologies elaborated	Already provided for

	<p>scientific effort to strengthen Kenya coffee's resistance to diseases and pests developing a climate resilient coffee crop and resistance to diseases and pests</p> <p>Issue: This is a good thing but there needs to be a caveat to ensure this is not used to produce GM coffee</p>		
25 (6) Missing Function of the Coffee Research Institute	Promotion of local consumption of coffee in collaboration coffee board and national government	Include as missing	
25 (7) Missing Function of the Coffee Research Institute	<p>Develop incentives to increase production through provision of environmentally friendly inputs</p> <p>Issue Integration environmental particularly soil degradation and climate change through incentives for</p>	Add	No merit as that's not the mandate of the institute / Foundation

25 (8) Missing Function of the Coffee Research Institute	Encourage production of coffee for niche markets e.g. organic, Fairtrade, rainforest certified	Support production of coffee for niche markets e.g. organic, Fairtrade, rainforest certified	No merit as there are many certification schemes
<i>Section 30 Role of the County Government</i>	<p>Agriculture being a devolved function. <u>Add section 30 (5)</u> that the enforcement of all mandate of the Regulation shall be in accordance with the Constitution to enhance coffee business.</p> <p>Several licenses shall be expressly managed by the County and it shall uphold the rule of law in the execution of their duties.</p>	<p>Central management of cash crops to bolster the coffee industry and export earnings.</p> <p>Safeguard the industry from double or over legislation.</p> <p>Regulated rates stipulated by MOA. The County Government being the ambit of devolution ought to observe and uphold the provision of existing legislation and the Constitution. In promoting business activities within the counties as subscribed in Article 183 (1) (d) whereby it is mandated to perform any other functions conferred on the County by the Constitution or national legislation. This ought to be exercised in observance of transparency and fairness without undue coercion. It is notable that various trade restrictions imposed on coffee businesses in the period from 2013 to date should not be repeated.</p>	Already incorporated

Section 30 (e) Role of the County Government	Issuance of pulping station, warehousing, and coffee roasting licences.	Deletion of the coffee roasting license this is on basis that the aforementioned license is embedded with an alternative major license issued by the coffee Board of Kenya, refer to section 31(1) (a).	Already incorporated
Section 30 (g) Role of the County Government	(g) inspection of nurseries, pulping stations, roasters, and warehouses located within their respective counties.	The scope of inspection should be clearly defined to elaborate on the objective, timelines, modalities of inspections set out and report submitted to the Coffee Board of Kenya.	Already incorporated
Section 30 (h) Role of the County Government	(h) enforcement of county and national legislation on coffee, industry	The County Legislation if any should be aligned to the Coffee Bill to avoid duplicity and conflict of laws. There is need for consistency across all Counties on the coffee dealings as it is an export crop, thus the Coffee Board ensures that all Legislation, policies are aligned.	This is implied
Section 30(1)k	Insert Coffee Research Institute (CRI) (k) monitoring and report of incidences of pests and disease outbreaks and taking appropriate action in collaboration with the Board, Coffee Research Institute,	The CRI is mandated, possess requisite expertise, facilities, and structures to undertake extensive and conclusive genomics research. Central management of research shall be valuable to the country	This has no merit as it can limit the coffee Research

	and other relevant government agencies.		
Section 30(3) b	Delete research (b) technical support including research and extension services;	Coffee Research Institute placed to oversee the coffee industry research and development. The Counties associate or interact with the CRI satellite offices within the regions.	
Section 30(3)	Section 30(3) The County may, in accordance with regulations made under this Act and subject to any other law, put in place programmes for ensuring the provision of the following incentives and facilities to growers insert 3(b)i Counties shall support the coffee industry by facilitating the initiatives between the growers and industry stakeholders. Insert 3(b)ii Expedite the processing of the requisite licenses, to assist growers within the respective counties	Streamline the licensing services at the County, to avoid delays which may affect business operations. There is need of a strategic document informing the project feasibility and sustainability of the same. Clear policies on incentives, well-reasoned and to the advantage of growers. Fair and just allocation of incentives, free from coercion for the recipient to subsequent business.	No merit- This is an operational issue

	fulfil contractual obligations.		
30 (4) Role of county level of governments	<p>In execution of the roles provided for in sub-section (1), the county governments may establish a County Coffee Committee to provide technical guidance in coffee matters</p> <p>Issue</p> <p>This is a good idea, good mechanisms to implementation should be put in place</p>	This is a good idea, good mechanisms to implementation should be put in place	A comment- well noted
PART IV (ROLES OF THE COUNTIES.)	<p>The Bill has been silent on the lending bit towards realization of the developed agricultural function that allows for the promotion and support of the farmers and players along the value chain in conjunction with the Commodities Fund and the Cherry Fund.</p>	<p>The Bill could also be amended to include a clause that allows the Commodities Fund lee way to work with the County Governments. (This should be expressly stated in the Fund's establishing instrument.) This because the County Governments have been tasked greatly in the Bill with the affording farmers with accessible farm inputs including quality seeds, planting materials and market linkage.</p>	Funding of the Commodities Fund is provided for under a different arrangement

Part IV - Role of County Governments	To promote mainstreaming of biodiversity, environmental conservation and climate change into the coffee sector	To include <i>mainstreaming of Climate Smart Agriculture and Ecosystem Based Adaptation into the coffee sector value chain.</i>	Already incorporated
Section 30	County Coffee Committee	A county may end up having a committee for each commodity. It should be indicated that a county commodity committee may still serve as the county coffee committee	The counties will have the leeway to constitute the committee
30 1(c) (f),4	Registration of nursery operators Offering and coordination of extension services County coffee committee(CCC)	In registering and inspecting nursery operators the county govt should work closely with the coffee research institute(CRI) to ensure farmers get quality seedlings. The county govts should clearly document and publicize the various licenses it's mandated to issue, the applicable fees, and timelines for transparency purposes As for extension services the county govt should facilitate those officers and majorly appraise their performance based on their farm visits and the impact it has on the farms output. Besides those officers should employed on a performance contract basis. Every ward should	The counties may work with coffee Board of Kenya (CBK) and Coffee Research foundation (CRF)

		<p>have at least two officers stationed at the ward level.</p> <p>In establishing the CCC the CCC for agriculture should incorporate views of the various coffee stakeholders in the county and it should be mandatory for the CEC to constitute the CCC within (three months of taking office if there's none) which should work jointly with the coffee board and the CRI in executing its roles.</p> <p>Last but not the least in case one is aggrieved by a decision of the county govt and the CEC there should be a leeway to appeal to CEC for agriculture and the coffee board. More importantly the coffee board and the CRI should organize regular trainings to build the capacity of county govt official handling coffee matters.</p>	
Part V- licensing provisions Section 31	Insert appropriate definitions of licenses issued by the Board in section 2.	Guide stakeholders on the licenses.	No merit as this is already done.
31 (1)	Licenses issued by the board	For the various licenses issued by the board, the documentation need for the same, fees levied, process flowchart and timelines for the same should be clearly	To be covered in the regulations

		communicated to the coffee stakeholders in time	
32 b	Pulping licences	A pulping licence holder should be allowed to roast and package coffee. This will make it possible for farmers to have access to their coffee for drinking. This will increase the domestic consumption.	Its provided under the license of grower marketers
33 Application for renewal of dealer's license	An application for the renewal of a license shall be made to the Board not later than the first day of the month of September in which the current license is due to expire: Provided that a late application may be made upon payment of an additional late application fee of ten per cent (10%) of the ordinarily applicable fee. Issue Prorated payments unusual	33 Application for renewal of dealer's license	Has merit - Delete the provision on 10 % penalty .
Section 33	Delete the penalty provision on late application.	Delay of the Renewal may not exclusively occasion by stakeholders.	Already adopted
34 (3) Licensing provisions	Licenses issued under this section as specified	Alignment with government financial year	No merit - Retained to align with coffee year

	shall remain in force until the 30th of September next following the date of issue, unless earlier cancelled		
Section 34(5)	The requirement that the Board publishes in the gazette license applicants and consideration of objections.	Gazettement undertaken during first time registration, subsequent licensing managed by the Board and the list published in the Kenya Gazette. Possible contradiction with section 36 that prohibits operations without a license and may curtail operations of the stakeholders.	Has merit- adopted clarification made to provide only for the new applicant
Section 36(4) & (5)	Amend provisions: (4) Where a person is convicted of an offence under this section, the court may order that any coffee in relation to which the offence has been committed be forfeited administered by the Board (5) Any coffee under the custody of the Board under subsection (4) shall be sold by at the Nairobi Coffee Exchange and the proceeds accruing from such sale shall be released to the respective growers in line with the	Protection of the growers' interest. The mistake of the offender should not be meted out on the grower. The Board to establish systems whereby stakeholders that do not hold valid licenses are prohibited from engaging other stakeholders. Information easily available and published to the industry players.	NO merit- This clause applies for illegally acquired coffee and can only be forfeited to the Board The clause is retained .

	administration shall be credited to the Board and held in an escrow account and thereafter released to the respective growers.		
Section 37	Align the registration to the license renewal. Amend 37(1) 37. (1) A person shall not conduct any coffee business unless that person is registered and licensed by the Board in accordance with this Act.	Efficiency in execution of mandate by aligning processes such as registration and licensing. Time management Resource optimization Registration list extracted from the stakeholders that have procured licenses. Centralized data base and ease of serializing the information, ease of retrieval for all stakeholders. Detail of licenses exported to the registration folder.	Has merit - The issue of licensing is covered under section 36 and during licensing and registration are done simultaneously We retain the clause 37 .
Section 37(1)	Delete clause	Penalty for non-registration is punitive and not commensurate to the mistake.	Retain the penalty its necessary for enforcing Registration
	Delete the term brokers.	Not applicable or recognized by the Act.	Delete brokers they are not provided in the proposed bill (regulation
	Delete the words coffee bags suppliers		Concur and delete as suggested
37(6) Registration by the Board	The Board shall maintain an up-to date register of all registered players, and share the register with the respective county government. Issue	The Board shall facilitate the county government to maintain an up-to date register of all registered players.	The section is retained as it was and the role of the county indicated in the side notes - County to register growers

	Easy as set up to have a conflict of function as the county administration plays a subservient role to the Board.		
38 (1) Registration of Co-operative Societies	A smallholder coffee grower may register with the co-operative society, association or company to which he delivers coffee.	Include Community based organization (CBO)	Clarified to indicate focus of counties to register cooperative societies for small scale coffee growers. CBOs are too loose in their constitution Action- Delete association or company to which he delivers coffee
Section 38(2)	Delete clause (2) Every Coffee factory may, if its members so resolve, apply for registration as a cooperative society under the co-operative societies Act.	The factories are sufficiently governed Co-Operative Societies Act and this may be a departure of the objective. Defeats the existing structures established with the cooperative movement.	To be guided by the Cooperative Societies Act.
38 (2)	Coffee factory registering as a society on its own	Where a factory which was previously jointly registered to a society resolves to stand on its own as a society, the county govt and the coffee board should facilitate the registration by monitoring the process to ensure fairness and avoid unnecessary delays.at most the transaction should take 4 months to	No merit, the clause is retained

		be concluded otherwise the management of the current society the factory is in may unnecessarily impose stumbling blocks to deter factories from standing on their own by employing delay tactics or disproportionately allocating liabilities to the factory so resolving to stand on its own.	
38(3)	Every cooperative society, association or company	Include Community based organization (CBO)	Ament 38 (3) for clarity and we don't include CBO it not a legally recognized .
38 (4)			
Section 38(4)	Delete section	Coffee bags exported and wholly governed by the laws of the Country of origin thus the section is not feasible. However, the Board may source the data on imported bags from the Kenya Revenue Authority (custom officials). The intent of the section is not clear. Insert provision that the person with the new crop may register on the second year of the crop.	The section falls under Notification of growing and uprooting on section 39 , the section becomes No 39 (1)and amended for clarity
Production and Processing Section 41	Delete reference to section 37(3) 41. All the coffee produced and processed in the country shall conform to the Kenya Coffee Production Standards as prescribed under section 37(3) of this	Lack of nexus between provision of section 37(3) and 41. It is essential to continuously analyses the coffee industry and establish trends on the production and processing of coffee. Embark on protection of the identity on the integrity of the Kenyan coffee Section Lacks merit /sufficient information on production and	Adopted as suggested

	act.	processing. Refer to the close on proposal to address	
<i>Section 42 certification of coffee</i>	42. The Board shall register and monitor the certification schemes for compliance with protocols for Kenyan coffee in accordance with the international market requirements.	Currently all certification bodies such as Rainforest Alliance, CAFÉ and Fairtrade are not locally incorporated. However, they have established the regional office is in accordance with the existing Kenyan laws, thus this may be an additional requirement cost that shall be passed on the stakeholders, thus increasing as opposed to reducing.	No cost implication the registration is free and CBK need to know all players in the coffee industry Recommendation , retain the clause
<i>Section 44 coffee development</i>	<i>Replace coffee farmers with stakeholders in the coffee industry</i> 44 (1) The Cabinet Secretary may, on the advice of the Board, make policies and take steps to ensure that coffee farmers coffee industry stakeholders receive appropriate technologies, credit, farm inputs and marketing.	Equitable and just consideration in the dealing by the government in the provision of resources.	Adopted as suggested – delete farmers and put other stakeholders in the statement though farmers are key to coffee production
44 (1)Coffee development	The Cabinet Secretary may, on the advice of the Board, make policies and take steps to ensure that coffee farmers receive appropriate technologies, credit,	Modify: Replace farm inputs with environmentally friendly farm inputs	Not merit- It may not be necessary the details to go to regulations

	farm inputs and marketing.		
Section 44(2)	(2) The Board shall conduct training programs aimed at strengthening the capacities of county officers in terms of knowledge and skills in coffee production, processing technologies and marketing for different types of coffee.	Board undertake marketing of the coffee and advise the citizen to increase consumption. Preferable market target in diverse foreign jurisdictions with the help of the Ministry of Foreign Affairs, Trade and Industrialization, Ministry of Industry, Trade and Cooperatives vide Kenya High Commission attaché in ready market.	These two functions are not related, However the spirit of value addition and marketing are covered under the functions of the board in section 7
Section 44(3)	<i>Insert Coffee Research Institute</i> (3) The Board shall, in consultation with the relevant standards bodies, coffee stakeholders, county governments and research institutions, Coffee Research Institute develop the Kenya Coffee Production Standards and formulate therefrom a binding Code of Good Coffee Practice.	The main issues affecting the production of the coffee industry is the quality, quantity, pest and diseases. It is imperative that CRI is adequately established with proper modalities funded to undertake research on high yield, drought, and pest resistant areas Establish additional regions where coffee can be planted to increase the output.	No merit as putting CRI will limit other research institutions
45 c	Information sharing by the county and the board	It should be clear which licences are issued by the county and which are	Not merit- information sharing is important for data sharing

		issued by the board. Compulsory sharing of information doesn't arise.	
Section 46(4)	Delete section The manager of every coffee factory shall, within two months of the end of the crop year, call a meeting of out growers to choose the registered miller referred to in clause (5) from amongst at least three millers invited to make representations to the out growers.	Not applicable to the Act. The term out grower is neither defined nor recognized by the Act.	Has merit- adopted by replacing out-growers with members and the factory with coffee cooperative society
46 (4)	Appointement of millers/marketers When these are selected during barazas the millers agents compromise youths by buying alcohol and bribes to disrupt the barazas.	This should be done via secret bidding. The interested service providers need to bid for the jobs and their bids subjected to a procurement committee that should include a non-voting county representative to ensure fairness. However, the minister should set the maximum tariffs.	The issued can be done in the regulation
Section 46(5)	Amend clause ...delete the milling losses part 46(5) Each registered miller participating in the meeting to choose a miller shall make all	The price of coffee is variable preceded by various factors quality, quantity, demand & supply, Political changes, currency fluctuations, Climatic condition, high cost of farm inputs.	Has merit – suggestion adopted by deleting the milling losses since milling losses are determined by various attributes

	<p>disclosures necessary to enable farmers make an informed decision, that is to say, disclosures as to milling costs, handling and storage charges, other fees and charges and milling—losses as a percentage of coffee delivered for milling.</p>	<p>Coffee is graded after milling, this categorization of the coffees.</p> <p>Price takers thus without the base to factor the output.</p> <p>Demand and supply variables affect the trade.</p> <p>Milling losses are a factor of coffee quality, which is dictated by several agronomic factors that are handled at the farm level. A milling loss is not an activity and hence cannot be monitored. The services that a miller provides can only be auxiliary to the main service of milling. It is thus not possible to determine what other services to be offered by the miller through a regulation since non shall be core to the milling process</p> <p>Prescribing the charges for the services is an attempt to take over the ownership of the business that is dictated by the market forces of demand and supply</p> <p>It is going to be an uphill task to be able to cap the charges that the grower is charged post-harvest while the farming costs are on a free-drive.</p>	
Section 46(6)	<p>Delete section (6) In the absence of a compelling case made in writing and ratified by the members of a coffee factory, milling losses</p>	<p>Owing to the unique nature of the coffee industry the component of milling losses may only be ascertained at the completion of transaction.</p> <p>The rational of curbing the milling losses is not premised on any study or finding.</p>	<p>Comment adopted by- Deleting the entire part</p>

	shall be capped at eighteen percent of coffee milled.	No price guarantees The quality of the coffee beans delivered varies and requires different processing to ascertain the value, which varies depending on the grade.	
Section 46(7)	Delete section (7) Every resolution made under this section, including a resolution on milling losses above eighteen percent of coffee milled shall, within fourteen days, be filed with the Board and copied to the relevant department of the County government and to the Commissioner of Cooperatives.	Affairs of the Cooperatives governed by other legislation and by laws. Unfeasible business model.	4 &5, tariff, agreement, All millings agreement between growers and tariffs be Ament the clause to capture the agreement and tariffs charged and delete the part on resolution of the milling losses
46 (5) (6), (7) Appointment of Miller	Each registered miller participating in the meeting to choose a miller shall make all disclosures necessary to enable farmers make an informed decision, that is to say, disclosures as to milling costs, handling and storage charges, other fees and charges and milling losses as a	<i>There is need for clarification/specification and elaborated</i>	No merit

	percentage of coffee delivered for milling.		
46b	Sampling	Let us avoid multiple sampling which makes the farmers lose	Sampling to be retained It has been the practice
	Marketing agents	A miller should be the marketing agent	No merit – this has been the practice : retain
Section 47 (1)	<p>Delete itemized 4000 shillings per tonne</p> <p>47 (1) Every contract for milling of coffee under this act shall itemize and make full disclosures of all the expenses associated with milling including the actual cost of milling, the costs of handling, sorting, grading, packaging, and warehousing, which shall in any case not exceed Four Thousand shillings per tonne of coffee milled or such other fee as the Cabinet Secretary may, by regulations prescribe.</p>	Setting the base volume at 4000 shillings per tonne is unfeasible. Each parchment grade varies based on weather patterns, quality, processing at the factory. Not only is the total cost of milling affected by the quality of parchment, it is also affected by the number of bags that are used to deliver a tonne of parchment to the mill. The more the bags means the more the handling cost and therefore the cost of milling.	No merit - Retain the cap 4000 shillings per tone
47 (5) Milling terms and conditions	Any person who contravenes the provisions of this part commits an offence.	The consequences e.g suspension /cancellation of licenses	Retain. it's provided under the general penalty
Section 48 (2)	Delete grower miller	Grower Miller scope does not engage in trading.	Retain. The scope of grower miller has been expanded to

	48 (2) Where coffee is sold through auction. (a) A commercial marketing agent, a grower marketer, or a grower miller licensed by the Board may offer coffee for sale at the Nairobi Coffee Exchange.		include , milling , roasting , and marketing .
Section 49 (5)	Delete section on trading in other commodities (5) The Exchange may, subject to conditions established by law, trade in other commodities.	Coffee is unique and should be managed independently. NCE structure aligned to coffee industry exclusively. Government implore measure to boost the industry to increase the production area.	It's not mandatory for the exchange to allow other commodities. The provision is futuristic
49 (5), 50 Establishment of the Nairobi Coffee Exchange	The Exchange may, subject to conditions established by law, trade in other commodities.	This is strange and will risk diluting operations of the exchange	Retained
51 (1)	Classification of coffee by the marketer may end up delaying selling of the coffee	The classification should be done by the miller before the coffee is taken to the warehouse	No merit. The clause is retain as this has been the been the practice
52 (4) Anti-competitive acts	The Board may, on a finding that a licensee is in breach of the provisions of this Part suspend such licensee from the Exchange for	Change: a term not exceeding 18 months.	No merit. The clause is retained as- not exceeding six months 18 months very punitive.

	<p>a term not exceeding 6 months.</p> <p>Issue:</p> <p>This is too short a period. License breach should attract suspension of not less than 1 year</p>		
Section 52(5)	<p>52(5) A licensee who is in subsequent breach of these provisions commits an offence and is liable on conviction to a fine of two million shillings' in addition to having their license cancelled or suspended for such term as the Cabinet Secretary may, by regulations prescribe.</p>	<p>The infringement term stipulated reduce the penalty to 500,000 and</p>	<p>The clause is retained and ,deleted the word' land' with the fine reduced to 1 million</p>
<p><i>Direct Sales</i></p> <p>Section 53 (1)</p>	<p><i>Delete the clause and amend as stated herein under 53 (1)</i></p> <p>All direct sales contracts shall be lodged at the shall be validated through offer on the Coffee Exchange in the prescribed format. with the direct offer price as the reserve price.</p>	<p>Anti-trade, not practical. Defeats international trade practice Not commercially viable</p> <p>Lacks objective Direct sales are negotiated independently, offer constant business during the crop year and should not be managed through the auction at any point. Pave way for other regional Competitors i.e. Ethiopia or Uganda shall secure additional advantage over us due to the process.</p>	<p>Amended the section (53)for clarity</p>

		<p>The auction is undertaken in a fortnight; subsequently time lag shall impede the performance of contract.</p> <p>The coffee prices are based on global indicators thus, may result in price fluctuations and uncertainty of the trade.</p>	
53 (2)(1)	Direct sale	<p>I propose that all the coffee before offered for direct sale bids to be brought first at the auction where all the buyer compete fairly .In the past we have seen marketers offering direct sale to the sister company before even the coffee sample is delivered to the exchange.</p> <p>I would propose the direct sale to be only allowed incase the coffee doesn't meet the reserve price at the Nairobi coffee exchange.</p>	Has merit- The section has been amended to capture the spirit
<i>Section 54 (1)</i>	<p>Amend the section,</p> <p>Replace marketing agent with coffee buyer</p> <p>54 (1) Where a sample of coffee has been sent to a coffee buyer a marketing agent under section 40(3)(b), the marketing agent shall classify the coffee of which it is a sample in accordance with the sample, and</p>	Lack of nexus between section 54(1) and section 40(3)(b) the referenced section.	Adopted by amending the section accordingly to conform to the numbering of the Bill

	shall, within seven days after such classification, notify the grower to whom the sample belongs of such classification.		
54(5) Anti-competitive acts	Land	Typo delete and replace with and	Suggestion adopted and bill amended
<i>Section 56 (2)</i>	<i>Delete the section:</i> (2) Upon purchase of coffee at the Exchange, a buyer shall make payment of the coffee so purchased into the Direct Settlement System, DSS, within a period not exceeding seven days	The introduction of the DSS is not premised on any justification nor trials undertaken prior to the implementation of the same. The operations of the industry have not been factored in the payment model thus unfeasible.	Suggestion has merit- Amended to include payment to growers account, grower marketing agent account. DSS is not the only mode of coffee payment. Also amended section 67 (3)
56(2)	Payments of coffee	I would recommend that the buyer to be given 14 days period before the coffee is re offered as at times we also encounter challenges on payments from suppliers due to late shipments and other causes.	No merit
56 (2) Coffee Buyer	Upon purchase of coffee at the Exchange, a buyer shall make payment of the coffee so purchased into the Direct Settlement System, DSS, This can be subject to misuse/abuse	Structures exist for dealer to pay to marketing agent who will pay farmer within 14 days	Already addressed under payment

56(3)	Remove "to the"	(3)	
	(3) a buyer who defaults to remit payments to the DSS within seven days to the for the bided coffee at the auction shall meet the difference of the value of coffee when such coffee is re-offered at the auction and fails to realize the original bid value by the buyer.	Inclusion for penalty and stern action for buyers that default in submission of payment.	Amended to include, marketing agents and growers No penalty changed
Restriction on purchase and sale of coffee	58 (1) Subject to the provisions of this Act— (a) no person shall purchase coffee from any grower; This is not clear	No cherry hawking ie no hawking of coffee between traders and grower	The section amended to prohibit cherry hawking .
61(2)Coffee payments	(2) Every coffee factory shall receive direct payment for its operations and is prohibited from receiving money on behalf of coffee farmers. 3) Payments to factories or societies from the Direct Settlement System Issue: This can be subject to misuse/abuse and will	Structures exist for dealer to pay to marketing agent who will pay farmer within 14 days	Delete 61 (2) It's not possible pay the grower directly

	also be a logistical nightmare		
58 1 (a)	Purchase of coffee from growers	<p>Growers should be at liberty to sell their coffee to factories or their fellow growers who are holders of valid current pulping station license, however the growers with pulping station licenses should conduct due diligence before buying cherry from the other growers to especially ensure they don't buy stolen cherry. Those pulpers who buy cherry from the growers should keep an updated register of the farmers they buy from and issue a receipt as well for the cherry so bought otherwise the penalties for buying stolen coffee should include but not limited to a jail term of not less than 7 years, the revocation of the licenses or a fine of 2M or the value of the stolen coffee whichever is higher. At the factory level growers should be free to decide if they want to sell cherry, parchment or clean beans at the auction or via direct sales</p>	No merit , issue has been dealt with
<i>Section 58(3)</i>	(3) The Cabinet Secretary may cancel the licence of any marketing agent convicted of an offence under this section.	The Board is mandated to manage the operations and licensing of the coffee industry. This amounts to interference by the Cabinet Secretary	The suggestion has no merit- the clause is retained

59(1)	<p>Lending farmers by marketing agents</p> <p>This will always be there so long as the farmer doesn't have cheaper lending sources</p>	<p>Let us have this delayed until a financing option is found</p> <p>We can have anyone intending to finance farmers get licensing from the Central Bank of Kenya</p>	The clause is retained
<i>No loans by millers and marketing agents, Section 62</i>	<p>62 (1) It shall be illegal for coffee millers and marketing agents to lend to farmers at interest howsoever such lending is described.</p> <p>(2) A miller or marketing agent who violates subsection (1) commits an offence.</p>	<p>Fair treatment and non-discrimination are tenets anchored in the Constitution thus imperative for Preferential treatment to be discarded.</p> <p>Equal treatment of all stakeholders as they collectively contribute towards the sustenance of the coffee industry and the Country export revenue.</p>	Section 62 is retained as is - we propose for further discussion with the Kilimo
<i>Section 64</i>	Quality assurance of export products	This should solely be managed by KEPHIs in view that its properly established, possess the expertise in managing the quality elements.	Retain the section- this is the mandate of Board
67(2) (c)	2% buyer levies	<p>Imposing these levies would have negative effect considering all the Companies pay taxes to be allowed to operate. Apart from the proceeds of coffee purchase the buyer incurs other operation cost before export which are still taxed.</p> <p>This would affect the farmers .</p>	Retain the levy to maintain the operations of the industry

SECTION 67(2)	There is lack of clarity on the allocation of the levy towards the lending arm hence the creation of a gap which may affect growth of the sub sector.	Further the Bill should include an explicit percentage from the levy and funds collected towards the lending aspect to the sector under the Commodities Fund.	No merit – the funding of the sector is well provided for elsewhere
Missing Function Missing	Develop a Coffee Academy should be included as a function Issue specialized sector staff	Provide for a coffee training Institute	CRI has a coffee college with the mandate to offer coffee training
67 (4)			Inserted clause to indicate DSS to 2 % levy CRF
67 (5)			Inserted a new section for all coffee exporters remit 2 % of the Export value to the board

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