THE MINISTRY OF AGRICULTURE AND LIVESTOCK DEVELOPMENT

DRAFT REGULATORY IMPACT STATEMENT (RIS)

TEA (REGISTRATION AND LICENSING) REGULATIONS, 2024

MAY 2025

1.0 Introduction

The Regulatory Impact Statement for the proposed Tea (Registration and Licensing) Regulations, 2024 was prepared in accordance with the provisions of sections 6 and 7(1) and (2) of the Statutory Instruments Act, 2013. Section 6 of the Act requires the Regulation Making Authority to prepare a Regulatory Impact Statement for the proposed regulations indicating the costs and benefits of the proposed regulations on the public and stakeholders. Sections 7(1) and (2) of the Act set out the contents of a regulatory impact statement for the proposed regulations as follows:

2.0 Statement of the Objectives and Reasons for the Proposed Regulations

Justification for the Tea (Registration and Licensing) Regulations

The tea industry in Kenya is an essential contributor to the nation's economy. It supports the livelihoods of over 7 million people directly and indirectly and accounts for about 2% of the Country's Gross Domestic Product (GDP). Tea cultivation, a rural-based economic activity, has led to the development of rural infrastructure such as roads, schools, telecommunication and other social amenities. Kenya produces an average of 500 million Kg of made tea annually, of which 91% is exported and 9% is consumed in the local market.

Tea, therefore, contributes immensely to the socio-economic development of the country. It is the leading foreign exchange earner, amounting to 20% of the total foreign exchange earnings and contributing 4% of the GDP. It further provides livelihood, supports 0.64 million Kenyans and contributes to rural development. (TBK. 2023)

In Kenya, the success of high tea production is attributed to three main factors. The first is the government policy formulated after independence that focused on integrating small-scale growers into the mainstream of tea cultivation. It is estimated that small-scale tea production under the Kenya Tea Development Agency (KTDA) accounts for about 60 per cent of the total tea produced. In comparison, the remaining 40 per cent comes from the multinational sector and large-scale growers. The second factor behind Kenya's tea success is establishing an efficient estate sector operated by global tea companies. This development introduced a revolutionary management system in the industry, leading to a five-fold increase in output. The third factor is the selection of high-yielding varieties by the Tea Board of Kenya's technical arm, the Tea Research Foundation of Kenya (TRFK), along with the selective application of herbicides and improved planting and cultivation methods. These three factors have significantly impacted the country's tea volume (KIPPRA, 2020).

Currently, the tea industry's regulation, development, promotion, research, and infrastructure face significant underfunding, necessitating the creation of a sustainable framework for oversight and governance. The Tea (Registration and Licensing) Regulations have been developed to provide clear procedures for registering and licensing all value chain actors in the tea sector. The regulations are designed to support the tea industry's effective regulation, development, and promotion, ensuring its competitiveness and long-term sustainability.

Section 74 of the Tea Act gives powers to the Cabinet Secretary to make regulations to operationalise the Tea Act better. This includes providing for the procedure of registration of tea brokers, small-scale tea growers, medium-scale tea growers, large-scale tea growers, commercial green leaf transporters, tea packers, tea buyers, tea importers, tea exporters, management agents, auction organisers, warehouse operators, commercial tea nurseries and the licensing of tea manufacturers.

The draft Tea (Registration and Licensing) Regulations, 2024, have been developed to establish the framework for registering and licensing tea value chain players. The regulations outline the procedures and requirements for registration and how licensing will be administered and enforced in line with the authority granted to the Cabinet Secretary under Section 74 of the Tea Act. (TBK, 2024)

The absence of a practical framework for the registration and licensing of the tea sector actors can lead to several challenges, including:

- **Quality Control Issues**: Without proper registration and licensing, there may be a lack of standardised quality control, leading to inconsistent tea quality.
- **Market Access Problems:** Inadequate registration and licensing of sector actors can hinder access to international markets that require stringent quality and safety standards.
- **Economic Losses:** Inadequate registration and licensing in the industry can result in economic losses due to the inability to meet export requirements and potential product rejection.
- **Regulatory Non-compliance:** Poorly regulated registration and licensing of crucial industry actors can lead to non-compliance with local and international regulations, resulting in fines and legal issues.
- **Reputation Damage:** The reputation of Kenya's tea industry could be damaged if exported products do not meet quality standards, affecting long-term market trust and demand.

These challenges highlight the importance of proper registration and licensing to ensure the sustainability and growth of the tea industry. (Gesimba, 2005)

Across the globe, registration and licensing of actors in the tea industry for national interests is joint. For example, the Tea Act of 1953 is India's key legislation regulating the tea industry. It established the Tea Board of India to promote the industry’s development by regulating tea production and export. The Act also facilitated the formation of Tea Councils across various states to support industry growth. Additionally, it mandated the registration of tea estates, factories, and

Tea Board export licenses, regulated tea quality standards, and appointed tea inspectors responsible for inspecting tea gardens and factories (Tea Board India, 2024).

In Sri Lanka, the Sri Lanka Tea Board (SLTB) was established as a fully government-owned statutory institution by an Act of Parliament on 1st January 1976. The primary objectives of the SLTB under the above Act are the development of the tea industry in Sri Lanka, the promotion of Ceylon (Sri Lankan) Tea globally, and the implementation of regulatory requirements to be followed by the industry. Regulations concerning production, cultivation and replanting, the establishment and operation of tea factories and the conduct of the Colombo Tea Auctions are the responsibility, under the Act, of the Board. Its statutory responsibilities also include maintaining tea quality standards, issuing packaging guidelines, warehousing requirements, etc., framed under the Sri Lanka Tea Board Law, the Tea Control Act No. 51 of 1957 and the Tea (Tax and Control of Exports) Act No. 16 of 1959. (Sri Lanka Tea Board. 2024)

In Tanzania, the Tea Board of Tanzania (TBT) is a corporate body established by the Tea Act No. 3 of 1997, following the separation of the regulatory and development functions of the former Tanzania Tea Authority. TBT is responsible for regulating the tea industry in Tanzania, which includes overseeing and improving tea cultivation and processing, licensing tea blenders and packers, collecting, keeping, and maintaining industry statistics, controlling pests and diseases, and supporting research on all aspects of the tea industry (Tea Board of Tanzania, 2024).

In Uganda the tea industry in Uganda is regulated by several acts and regulations, including:

a. *Uganda Tea Growers Corporation Act* requires anyone who wants to plant tea to register as a tea grower with the corporation.
b. *Uganda Tea Authority Act 1974:* Established the Uganda Tea Authority, which is responsible for the export and marketing of tea, as well as the growing, harvesting, and processing of tea. The Act also includes a licensing system for tea cultivation and manufacturing.
c. *Uganda Tea Authority (Prescription of Forms) Regulations*: Prescribes the forms required for applications to erect a tea factory, obtain a tea manufacturing license.

3.0 Statement on the Effect of the Proposed Regulations

The following are the effects of the proposed Tea (Registration and Licensing) Regulations, 2024.

3.1 Effects on the Public Sector

The proposed Regulations will affect the Public Sector in the following ways:

1. These regulations will establish a clear and practical framework that will regulate the operations of all actors in Kenya’s tea industry. These include tea brokers, small-scale tea growers, medium-scale tea growers, large-scale tea growers, commercial green leaf

transporters, tea packers, tea buyers, tea importers, tea exporters, management agents, auction organisers, warehouse operators, commercial tea nurseries and tea manufacturers. This will enhance coherence and synergy in the development of the sector.

2. The regulations will allow the development and maintenance of a real-time database of all actors, their business volume trends, production capacities, product range and quality, etc. This will enable informed sector planning, decision-making, and policymaking.

3. Total compliance with regulations coupled with increased surveillance, monitoring, and inspections across all nodes of the industry, including production, processing, marketing, grading, storage, collection, transportation, and warehousing, will guarantee the quality of Kenyan tea consistent with the national tea standards, applicable international standards, and any other relevant law.

4. These regulations will eliminate illegal trade practices in the tea industry. These include unlawful imports, exports, processing and manufacturing and the menace of tea hawking. These practices deny the Government revenue in the form of taxes and levies and drain public resources used to fight them

5. Levies on tea imports will discourage the importation of tea and, therefore, protect the local Kenya tea industry from the proliferation of unbridled and cheap tea imports, including imports from neighbouring tea-producing countries.

6. The revenue increase generated through the proposed fees and levies can be reinvested in the tea industry to support much-needed research to improve production and value addition. It will also be used for promotion, trade, and marketing development for Kenyan tea, thereby increasing the industry's returns.

7. Increased investment in research, tea product development, market diversification, and development, supported by the increased revenue generated, will support increased production and improved tea quality and sales volumes. This will result in increased foreign exchange earnings and thus improved balance of payments for the Country

8. Increased marketing investment will support developing and penetrating new markets for Kenyan tea and thus diversify the current traditional markets. Consequently, it will reduce Kenyan tea price fluctuations, securing and increasing foreign exchange earnings.

9. With increased investment in branding and value addition of tea, Kenya will position herself as a source of high-end branded, value-added and speciality teas which attract premium prices. This will increase returns to the local tea producers, manufacturers and other tea value chain actors

10. Value-addition and production of branded and speciality teas will create jobs and business opportunities along the value addition and production of branded and speciality teas value chains.

11. Improved infrastructure through improved maintenance of the dilapidated infrastructure in tea-growing regions will complement infrastructure development by other public agencies in tea-growing areas

12. Increased revenue from the levies will enable the Board to better undertake its statutory and regulatory role in the industry including regulation of the industry and market development for Kenya's tea. This will reduce the Board's dependency on the National Treasury for funding to perform its regulatory functions in the sector.

13. Increased investment in tea research and regulation of tea nursery operators will ensure that tea growers across the country have access to recommended, high-quality tea variety planting materials for the establishment of new tea crops or replacing ageing crop fields. This will increase the nation's tea production and tea quality.

14. The increased revenues of the Board will result in enhanced services in the tea subsector by the Board, including the clearance of tea exports and imports, monitoring and inspection of tea factories and other industry players, and promotion and development of Kenyan tea on the global stage.

15. These regulations will promote consistency in fees, commissions, and other charges payable for the services in the sector and avoid exploitation by dominant agents of disadvantaged actors, including smaller factories. This provision may, however, be viewed as contrary to the principles of free trade.

16. Increased revenue from the levies will reduce the Board's funding dependency on the National Treasury.

17. Introducing the proposed fees and levies will make Kenyan tea more expensive in the world market, which may lead to a loss of the country's market share, where Kenyan tea already faces intense competition from other leading global exporters. This could also further reduce the already low domestic tea consumption.

18. Adopting and operationalising the regulations will require additional resources to facilitate public participation and the development of a framework to manage the registration and licensing processes and the proposed fees and levies.

3.2 Effects on the Private Sector

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

1. The tea industry will benefit from better services provided by the Board and supported by the increased Board revenue. These include crop research and development, increased access to agronomic services and technologies, clearance of tea exports and imports, monitoring and inspection of tea factories and other industry actors, surveillance, promoting Kenyan tea, and regulating the tea sub-sector.

2. Increased access to tea research findings and recommendations, innovations, and technological developments. These include quality planting materials to support increased tea production, value addition, and tea product development and diversification. This will lead to increased returns to the tea sub-sector actors.

3. Improved quality of Kenyan tea will result from increased adherence to national standards and guidelines across the industry and enhanced monitoring and surveillance of leaf quality in production, handling, transportation, processing, and manufacturing. This will ensure Kenyan tea remains one of the world's top-quality teas.

4. The proposed levy on tea imports will discourage the importation of tea and, therefore, protect the Kenyan tea industry actors from the proliferation of cheap and unbridled tea imports, including teas from neighbouring tea-producing countries.

5. Increased access to Kenya's traditional export markets and alternative new tea markets. This will accord Kenyan tea exporters increased options to market their products. It will further guarantee a market for increasing tea production and ensure the stability of producers' tea prices.

6. Increased tea value-addition and production of branded and specialty teas will create jobs and business opportunities along the value addition and production of branded and specialty teas value chains.

7. These regulations will promote consistency in fees, commissions, and other charges payable for services in the sector. They will avoid exploitation by dominant agents of disadvantaged industry actors, including smaller factories.

8. Enhanced regulation of the sector will eliminate unfair trade practices in the subsector, which often negatively affect the quality of Kenyan tea. These practices include illegal imports, exports, tea processing and manufacturing, and the menace of tea hawking.

9. The proposed fees and levies will increase the cost of doing business for all actors in the tea industry, reducing returns for tea enterprises.

10. Local consumer prices for tea products will likely increase as the levy costs are transferred to the end consumers. This may further reduce the already low domestic tea consumption.

11. Some provisions of these regulations may, however, be viewed as being contrary to the principles of free trade or infringing on the rights of private businesses.

12. Improved infrastructure in tea-growing areas, supported by investments from increased Board revenue, will enhance maintenance of deteriorating infrastructure, reduce quality and green leaf losses during transportation and processing, and alleviate logistical challenges in tea production processes.

13. The prescribed levy rates for teas imported into the country will create investment opportunities for branded, specialty teas and other value-added tea products to serve the current and increasing demand for these tea products.

14. Tea consumers will be guaranteed quality and healthy tea in local and export markets.

15. Introducing these levies may make Kenyan tea more expensive in the global and local markets, making exporters less competitive worldwide and potentially causing a loss of market share.

16. The prescribed fees and levies, especially for imported teas, will likely be viewed as prohibitive for business for actors in specialty teas and other value-added tea products not readily available in the country. This may sharply increase the costs of such tea products in the country and reduce their availability and uptake in the local market.

3.3 Effects on Fundamental Rights and Freedoms

The proposed Regulations may affect the fundamental rights and freedoms of individuals and players in the following ways.

i. **Consumer Protection**

Article 46 of the Constitution provides for consumer rights and in particular, that consumers have the right to goods and services of reasonable quality, and to information necessary for them to gain full benefit from goods and services for the protection of their health, safety and economic interests and to compensation for loss or injury arising from defects in goods or services. The draft regulations promote this right in several ways. The registration and licensing requirement will ensure that only authorised persons carry out the activities relating to tea growing, packing, and transporting, among others. The Board also inspects crops and monitors the compliance of the licensed persons with the standards set in the Act. This ensures that the products are safe for consumers.

ii. Fair Administrative Action

Article 47 of the Constitution guarantees the right to expeditious, efficient, lawful, reasonable, and procedurally fair administrative action. The Regulations enhance this right by, for instance, providing that the Board shall give reasons for the decision where the Board rejects an application for registration or a license. The draft regulations also provide for issuing letters of objection or no objection, such as when a person wants to change from one tea factory to another.

iii. Right to privacy

Article 31 of the Constitution provides for the right to privacy. This can be affected by the draft regulations. Various provisions in the proposed regulations provide that one must apply for registration of commercial tea factories, green leaf transporters, and registration of large-scale, small scale and medium-scale tea growers. The applications are to be made in the prescribed forms. These forms include personal data such as names, addresses, phone numbers, and PINs. The information is kept in registers by the tea factories and submitted to the Board and County Government annually. All these are data processing activities that ought to be done according to the provisions of the Data Protection Act. The Board and the tea factories should establish strong data protection mechanisms to protect personal data in line with the Data Protection Act (Cap 411C) and the respective regulations. The Board and tea factories should limit access to the filled forms to only required individuals to mitigate the risk of data mining.

iv. Access to Information

Article 35 of the Constitution provides for the right of access to information. The draft regulations provide for the obligations of tea factories or the Board to keep different registers. These registers contain information on licensed tea growers and other persons. Members of the public may inspect these registers upon requesting the Access to Information Act.

4.0 Statement on Regulatory & Non-Regulatory Options

This section highlights other regulatory and non-regulatory options that may be adopted to achieve the same intended objectives of Kenya's Tea (Registration and Licensing) Regulations 2024.

4.1 Option 1: Maintaining the *Status Quo*

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

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

Though the Tea Act 2020, operationalised in January 2021, provided for licensing and registration of the various tea sector value chain actors to facilitate the continued development of an efficient and effective tea industry in the country, this Act is yet to be fully operationalised. The proposed Tea (Registration and Licensing) Regulations 2024 seek to fully operationalise the registration and licensing aspects for the different actors in the industry to realise the envisaged benefits of the Tea Act 2020. Therefore, maintaining the status quo would leave the tea sub-sector in its current state with an ineffective regulatory framework and dire need for additional investment in crop research, product and technology developments, market development and diversification. This will leave the industry facing the threat of not being competitive enough in the world market and thus at risk of declining performance. Poor performance of this industry would be a threat to the stability of the national economy and to the livelihoods of millions of Kenyans who depend on this critical economic crop.

4.2 Option 2: Passing the Regulations

The Government can achieve its policy objectives by utilising taxpayer's money or through a range of non-spending interventions, including regulation. The aim and purpose of these Regulations are to register and license tea factories, small-scale tea growers, medium-scale tea growers, large-scale tea growers, commercial tea nurseries, commercial green leaf transporters, and tea dealers. These regulations prescribe the procedures and terms and conditions for the registration of all categories of tea growers, tea manufacturers, commercial tea nurseries, commercial green leaf transporters, and tea dealers, as well as the declaration and submission of returns on tea and the fees charged under the Act and any regulations made thereunder.

These Regulations also seek to generate additional revenue from the industry to support enhanced crop research, tea products and technology developments, market development, and diversification, which will ensure the sustainability and competitiveness of the Kenya tea industry in the global arena.

However, regulations may create costs for businesses and the public sector and, if overused, poorly designed, or poorly implemented, stifle competitiveness and growth.

Adoption and operationalization of the proposed Regulations will translate to the following:

1. These regulations will establish a clear and effective framework for regulating the operations of all actors in Kenya's tea industry. They include tea brokers, small-scale tea growers, medium-scale tea growers, large-scale tea growers, commercial green leaf transporters, tea packers, tea buyers, tea importers, tea exporters, management agents, auction organisers, warehouse operators, commercial tea nurseries, and tea manufacturers. This will enhance coherence and synergy in the continued development of the sector.
2. Increased tea research and development, thus improving production, quality, and value addition, including in the branded and specialty teas niche. This will increase industry actors' incomes and foreign exchange earnings for the country
3. Better regulation of the sector to eliminate unfair trade practices in the sub-sector, including exploitation of smallholder tea producers by intermediaries and practices that contribute to the loss of quality of the world re-known tea
4. Enhanced monitoring and surveillance of leaf quality, transportation, manufacturing and handling standards to reverse the declining quality of Kenya tea.
5. Increased access to Kenya's traditional tea market and the development of new alternate and diversified markets guarantee industry actors reliable markets for increasing tea production and stabilising tea prices.
6. Increased tea value addition and production of branded and specialty teas will create jobs and business opportunities along the value-addition and production of branded and specialty teas value chains.
7. Levy on tea imports will discourage the importation of tea and therefore protect the Kenyan tea industry from the proliferation of cheap and unbridled tea.
8. Increased revenue from proposed levies and fees will enable the Board to better undertake its role in the industry, including providing various critical services, regulating the industry, and developing the market for Kenyan tea.
9. Tea industry actors will benefit from an expanded and diversified tea market for their produce and products. They will therefore benefit from a better volume of offtake, price stability, better prices, and thus better returns from their investments.
10. Branding and value addition of Kenyan tea and local production of specialty teas which attract premium prices, increasing returns to the local tea producers, manufacturers and other tea value chain actors.
11. Increased revenue from the levy will reduce the Boards' dependency on the National Treasury for funding.
12. Tea producers and other industry actors will have access to new research developments, including technologies that address their identified challenges and needs to improve their businesses.

The Regulations are thus important for the continued growth and sustainable development of the tea industry in Kenya and the agriculture sector in the country in general and to the national economy.

4.3 Option 3: Other Practical Options

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

Alternatives to regulation include:

i. **No new intervention/do nothing**: This may include making use of existing laws (or none) and regulations, simplifying or clarifying existing laws and regulations, improving enforcement of existing laws and regulations, or making legal remedies more accessible or cheaper. As discussed in Section 4.1 above, the status quo in the sector is likely to remain since, currently, the existing framework is under the Crops (Tea Industry) Regulations, 2020.

ii. **Information and education:** Information and education can be used to empower the tea industry actors, including producers, processors, manufacturers, marketing agents, importers and exporters and other tea industry actors and stakeholders, to make their own decisions, improving choices for the mutual benefit of all. However, there are potential risks associated with this, since information and education can take time to make an impact. Access to information on research, technologies and market information in the country is still a big challenge and has remained very limited in the sector. The ability to use the little available information varies among the industry actors, the tea producers and other stakeholders. Besides, the available information may not reach all equally. It may also not be straightforward to assess how people will react or change their behavior in response to industry information available. The use of information and education, however, will increase costs for the government and businesses that will be providing the information and education required.

iii. **Incentive/market-based structures:** The government can use economic instruments, such as taxes, subsidies, quotas and permits, vouchers, etc., as initiatives to realize the desired objectives. These initiatives, however, are only practically possible in well-developed and efficiently functioning sectors which have well-defined structures. This is unlike in the diverse tea industry with many actors at the different nodes of the tea value chain driven by very different objectives. Further, often these sorts of systems need their own regulation to establish the framework and may have additional costs to the government and are unlikely to be effective in the tea industry as it is currently structured.

4.4 Alternatives to regulation

i. **Self-regulation**.

Self-regulation entails industry players developing a framework to self-regulate a sector. This could be done using codes of conduct or practice, customer charters, standards or accreditation. In many cases, rules and codes of conduct or practice will be formulated by the industry representatives or organizations under their own initiative. However, regulating registration and licensing of all actors in an industry cannot be undertaken by the same industry actors as they cannot thereafter undertake surveillance, monitoring and inspections of their own very operations and activities. These activities include green leaf production, green leaf collection, processing, marketing, grading, storage, transportation and warehousing of tea to ascertain and enforce compliance with these Regulations, the national tea standards, applicable international standards and any other relevant law. Thus, even with the existing different and multiple industry organizations e.g. KTDA, KTGA, EATTA, ITPAK etc., self-regulation currently cannot be effectively possible to realize the objectives of the Tea Act 2020 and the proposed Tea (Registration and Licensing) Regulations 2024 which remain a mandate of the industry's principle regulatory agency, the Tea Board of Kenya.

ii. **Co-regulation.**

Co-regulation is an intermediate step between state-imposed and self-regulation that involves some degree of explicit government involvement where the industry may work with the government to develop and operationalize a code of practice whose enforcement would be by the industry or a professional organization and accredited by the government. However, despite the clear potential benefits of co-regulation in an industry, the role of registration and licensing of industry actors in the tea industry, as provided in the Tea Act 2020, remains the legal mandate of the Tea Board of Kenya and cannot be substituted by co-regulation.

5.0 Cost-Benefit Analysis (CBA)

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

5.1 Economic Impacts of the Proposed Regulations

The economic impacts of the proposed regulations are outlined below.

5.1.1 Economic Benefits

The anticipated **economic benefits** of the proposed Regulations are: -

i. Improved production, quality, and value addition of Kenyan tea will increase income from tea, leading to increased returns for producers and other tea stakeholders.
ii. Increased tea exports and sales volumes resulted in increased foreign exchange earnings and, thus, an improved balance of payments for the country.
iii. Increased access to traditional tea markets and to newly developed alternative markets for Kenyan tea will lead to increased tea sales and reduced tea price fluctuations, assuring producers of stable tea prices and reliable markets.
iv. Increased tea research, technology and innovation in branded, specialty teas and other value-added tea products in the country.

v. Increased production of value-added tea, branded teas, and specialty teas that attract premium prices will increase returns to the local tea producers, manufacturers, and other tea value chain actors.
vi. Creation of more jobs and business opportunities in tea value-addition and production of branded and specialty teas.
vii. Elimination of unfair trade practices in the subsector, such as illegal tea imports and exports, middlemen's exploitation of smallholder producers, and quality-reducing practices.
viii. Improved infrastructure in tea-growing areas through ploughing back part of the increased revenue from the proposed fees and levies collected to maintain infrastructure.
ix. The proposed levy on tea imports will discourage the importation of tea into Kenya, protecting the local tea industry from the proliferation of unbridled and cheap imports. This will avoid frequent local market tea demand and enhance tea price stability.
x. Increased revenue from proposed fees and levies will enable the Board to better undertake its role in the industry, including regulation and market development for Kenya's tea. It will also reduce the Board's dependency on the National treasury for funding.

5.1.2 Economic Costs

The anticipated **economic costs** of the proposed Regulations are: -

i. The introduction of the proposed fees and levies may slightly affect the prices of Kenyan tea in the world market, making Kenyan tea less competitive.
ii. Price increases from the transfer of the cost of fees and levies to consumers will erode the competitiveness of Kenyan tea in the world market. This may lead to reduced demand for Kenyan tea, reduced volumes of offtake, and thus price instability in the subsector. It may eventually lead to the loss of livelihoods for tea-dependent households.
iii. The proposed fees and levies will increase the business cost for all tea industry actors.
iv. Local consumer prices for tea products are likely to increase as proposed fees and levies are transferred to the end consumers, which may further reduce domestic tea consumption slightly.
v. Reduced returns for all tea industry actors in the country due to the increased cost of doing business, which reduced their profits from their investments in the industry.
vi. The prescribed levy rate for tea imported may be viewed as prohibitive for business for actors in specialty teas and other value-added tea products.
vii. The affected tea industry actors may view compliance with all the provisions of these regulations as additional time-consuming and costly bureaucratic procedures.
viii. It is costly for the government to implement the regulations in the sector.

5.2 Social Impacts of the Proposed Regulations

The Regulations are expected to have the following social impacts.

5.2.1 Social Benefits

i. A well-regulated and growing tea industry will create sustainable employment opportunities, especially for rural youth in tea production, processing, manufacturing, trade, and marketing. This will improve the local community's standards of living.

ii. Increased production and marketing of quality tea(s) will translate to increased incomes for households in the tea value chain and thus increased households' disposable incomes to meet their daily needs.

iii. Reduced tide of rural-urban migration in search of employment opportunities by creating attractive, well-paying alternatives in the rural areas.

iv. Improved infrastructure in rural areas through the development of modern or additional tea processing, manufacturing, and marketing facilities.

v. Improved income distribution among farm families and communities in general has reduced inequalities. This is due to the increased production and participation in the industry by smallholder producers, traders, agents, and dealers.

vi. Improved education levels and reduced illiteracy in societies due to improved incomes and thus improved social well-being of the rural communities.

vii. The proposed fees and levies collected will assist TBK in developing strategies and building capacity in the sector to comply with Environmental, Social, and Governance (ESG) principles and implement climate change programs. This will enhance the sector's sustainability.

viii. The funding from the proposed fees and levies will enable TBK to create awareness and empower locals on their rights to eradicate social ills in the tea-growing zones.

5.2.2 Social Costs

The anticipated **<u>social costs</u>** of the proposed Regulations are:

i. Consumer prices for tea products may increase slightly as proposed fees and levies are transferred to the end consumers thereby reducing tea consumption.

ii. Attractive tea prices from expanded markets and the marketing of value-added tea products may encourage increased hawking and theft of tea. The middlemen may want to benefit from quick earnings, as has been witnessed in other lucrative cash crop value chains in the country.

iii. Reduced competitiveness of Kenya tea in the world market due to increased prices resulting from the levy may lead to the loss of Kenya's market share, which may threaten the livelihoods of millions of Kenyans who depend on the value chain.

5.3 Environmental Impacts of the Proposed Regulations

The proposed regulations are expected to have the following environmental impacts.

5.3.1 Environmental Benefits

The anticipated **environmental benefits** of the proposed Regulations are:

i. Research, breeding, and promotion of more climate-resilient tea cultivars and cultivars suitable for different agro zones and regions of the country will enable the expansion of tea production in marginal tea-growing zones.
ii. Reduced soil degradation due to improved crop cover from the increased land area under tea production and compliance with relevant tea guidelines, including the use of agro-chemicals.
iii. Improved land utilization and management, especially in otherwise idle, underutilized, low-potential, and marginal tea-growing areas.
iv. The proposed fees and levies collected will assist TBK in developing strategies and building capacity in the sector to comply with ESG principles and implement climate change programs. This will enhance the sector's environmental sustainability.

5.3.2 Environmental Costs

The anticipated **environmental costs** of the proposed Regulations are:

i. Environmental degradation resulting from the installation of new or additional tea processing, manufacturing, marketing, and rural road infrastructure.
ii. Increased soil degradation due to opening new areas or expanding land for tea production.

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

5.4 Quantification of the Benefits

The remarkable growth of Kenya’s tea industry has been attributed to the supportive role of TBK and the Kenya Tea Development Agency (KTDA) in the management of the smallholder sector over the years. The mandate of the Board, as provided for under the Tea Act 2020, is regulation, development and promotion of the tea industry and for connected purposes. "*To sustainably develop and promote the tea value chain through effective regulation for economic growth and transformation*". TBK undertakes tea research through the Tea Research Institute (TRI), which is TBK’s technical arm.

TBK executes its mandate using resources from different sources. These include internally generated sources such as fees, levies and commissions for different services rendered by the Board and support from the exchequer.

However, it must be noted that the proposed regulations principally target the registration and licensing of tea industry actors. Although the importance of these two processes in the development of the tea industry cannot be underestimated, it is difficult to isolate the specific possible contributions or impacts of the registration, licensing, and regulation of tea industry actors only in the transformation and continued development of the sector.

In addition, whereas there are clear potential benefits from increased investment in research in tea agronomic and technologies research, product development, market development and promotion initiatives, it is difficult to attribute such benefits to regulations on registration and licensing.

However, the absence of a comprehensive and effective regulatory framework for the industry that encompasses registration, licensing and regulation of the tea sector actors can lead to several serious challenges in the industry, including:

- **Quality Control Issues:** Proper registration and licensing will ensure standardized quality control, ensuring consistency in the country's tea quality.
- **Market Access**: Inadequate registration and licensing of the sector actors can hinder access to international markets that require stringent quality and safety standards.
- **Economic Losses:** Inadequate registration and licensing in the industry can result in economic losses due to the inability to meet export requirements and potential product rejection.
- **Regulatory Non-compliance:** Poorly regulated registration and licensing of key industry actors can lead to non-compliance with local and international regulations, resulting in fines and legal issues.
- **Reputation Damage:** The reputation of Kenya's tea industry could be damaged by exports if products do not meet quality standards, affecting long-term market trust and demand.

The implementation of the proposed regulations will significantly contribute to fully addressing these challenges to the benefit of all industry stakeholders and the country, and most of such challenges have been reported in the country. Some challenges are outlined below -

i. A survey conducted by the Kenya Tea Development Agency across its seven regions showed that: -
    - In 2022, hawking escalated, where 60.3 million kilograms of green leaf were hawked, leading to the loss of Kshs 15.36 billion in farmers' earnings.
    - Region 5, which covers Kericho and Bomet counties, had the highest percentage of hawked green leaf at 42%, while Region 6, which covers Kisii and Nyamira counties, hawked 36% of their green leaf. Region 7 (Vihiga, Kakamega and Nandi) had an estimated hawking of 15.1 %.
    - Brokers are offering farmers a quick Kshs.25 at the farm gate. Consequently, the farmers divert tea from factories where they earn Kes 50. (TBK, 2023/Guguyu, 2023)

ii. Several independent tea factories have been confirmed to aid and abet tea hawking. Surveillance inspections have further shown that "*some are processing up to 15 million kilograms while their license capacity is 5 million kilograms*". That is way beyond their approved capacity, contrary to the Law–Tea Act (TBK, 2023)

iii. Analysis of trade mis-invoicing in Kenya in 2013 shows that the potential loss of revenue to the government was $907 million for the year, according to a study by Global Financial Integrity. Lost revenue due to mispriced exports ($140 million) may be related to the coffee, tea and spice trade, given that this category of goods makes up over 90 per cent of all exports. (Global Financial Integrity, 2018)

iv. Challenges in the tea sector have been compounded by increased poaching and invasion of brokers. Together, these have escalated green leaf theft in tea-growing areas. According to the tea agency, brokers offer farmers a quick Kshs. 25 at the farm gate. Consequently, the farmers divert tea from factories where they earn Kshs. 50. KTDA have noticed a proliferation of unregulated and unregistered small-scale factories. The agency is blaming them for illegally hawking tea leaves in various parts of the Mt Kenya region.

The potential benefits from increased investment in tea crop agronomic and technologies research and development by the Research Institute and from the sector development and promotion initiatives and regulation documented in various studies and reports can be used to elaborate the anticipated gains from the re-introduction and operationalization of these regulations on selected parameters. These parameters include:

i. Gross Margin Analysis and enterprise profitability informal and informal marketing channels

a) Standard gross margin per Hectare

Item	**Unit Cost**	**Total Cost**
Population per Hectare (1.2x0.60m)		13448
Average yield per bush per year (Kg)		1.2
Total yield per Hectare/yr-1 (Kg		16137.6
Tea income Unit price (Ksh)	**Amount (Ksh)**	
1st payment	14.50	233,995.20
2nd payment	35.00	564,816.00
Tea Output Value (TOV) (Kshs)		798,811.20
Variable costs (Kshs)	**Unit price (Ksh)**	**Amount (Ksh)**
Fertilizer (NPK 26:5:5) 12bags/ha -	1800.00	21,600.00
Fertilizer application 4bags/ Manday	250.00	750.00
Weed control(glyphosate)3ltrs/ha x 2times	1200.00	7,200.00
Herbicide application labour cost 3ltrs/Manday	250.00	500.00
Plucking cost	12.00	193,651.20
Variable Costs (VC)(Kshs)		245,233.20
Interest (13.5%VC)		33,106.48
Total Variable Cost (TVC)(Kshs)		**523,572.88**
Gross margin/year (Kshs)		
GM= TOV-TVC		**275,238.32**

(Source KARLO, 2019)

b) **Gross margin Comparative analysis with Formal and informal (Hawking) marketing**

Item	**Unit**	**Total (Kshs)**	**Unit**	**Total**

		Formal Marketing		Informal (Hawking) Marketing
Production				
Population per Hectare (1.2x0.60m)	No.	13448	No.	13448
Average yield per bush per year (Kg)	Kg	1.2	Kg	1.2
Total yield per Hectare/yr-1 (Kg)	Kg	16137.6	Kg	16137.6
Tea income Unit price (Ksh)				
1st payment (Kshs))	14.50/Kg	233,995.20	25	403440
2nd payment (Kshs)	35.00/Kg	564,816.00	0	0
Tea Output Value (TOV) (Kshs)	**Kshs**	**798,811.20**	**Kshs**	**403440**
Total Variable Cost (TVC)(Kshs)	**Kshs**	**523,572.88**	**Kshs**	**523,572.88**
Gross margin/year (Kshs)				
GM= TOV-TVC	**Kshs**	**275,238.32**	**Kshs**	**-120,132.88**
Gross margin per bush/year (Kshs)	**Kshs**	**20.6**	**Kshs**	**-8.93**
Benefit cost Ratio (BCR)	**Kshs**	**1.53**	**Kshs**	**0.77**

ii. Green leaf production potential

- Improved technologies, including improved cultivars, have increased tea yields in Kenya over the last 50 years from an average of 1,500 kg to 3,300 kg of made tea per hectare per year on the large estates. The smallholder production systems yields have increased from an average of 600 kg to 2,300 kg of made tea per hectare per year.

  This represents a **120%** and **283%** increase, respectively, for large estates and small-holder producers attributable to investment in research in tea. (Source: TRI, 2022)

- Over 1000 improved clones, with a broad genetic base, have been developed by TRI for adaptation to adverse biotic and abiotic factors. Out of these, 58 cultivars have been selected for their consistent superiority in tea yields and quality under different agroecological and socio-economic conditions. 22 of these cultivars can yield between 5,000 kg and 8,000 kg of made tea per hectare per year.

- Further investment in research and commercialization of these cultivars has the potential to increase tea production by up to 247% and 142% for small-holder producers and large estates, respectively. (Source: TRI, 2022)

iii. Value addition benefits

The proposed fees and levies will assist the sector in supporting the value-addition of the tea products. This will increase foreign exchange earnings from the exports derived from value-added tea.

Base year: 2022

Country	Tea exports (Mil. Kgs)	Ave. Price USD/Kg	Total earnings (USD Billion)	Comparative prices to Kenya
Sri Lanka	247	5.04	1.245	94.5%

China	375	5.55	2.082	95%
Kenya	540	2.60	1.182	0

(Source MoALD, 2024)

- From the above data:
  - A Kilo of export tea from Sri Lanka and China earned 94.5% and 95%, respectively, more compared to that from Kenya.
  - Selling in bulk rather than value-added form is the main reason for Kenya's lower earnings from tea exports compared to Sri Lanka and China, respectively.
  - 99% of Kenya tea is exported in bulk form (60 kg Packages) while 1% is value added mostly in blended form and in packages of less than 3 Kgs, instant tea, iced teas and tea extracts. (Source MoALD, 2024)
  - The country can capture greater value by diversifying its tea products offering beyond black CTC tea to include specialty teas such as green and purple tea. Increasing the output of specialty teas by 20% annually has the potential to yield an additional Kshs. 18 billion for the industry, the bulk of which will go to the producers and processors. (Source EATTA, 2018)
  - Challenges of value addition and market diversification in the Kenyan tea industry include:
    - Limited research outputs on value-added products.
    - Tariff escalation in the destination markets.
    - Limited capacity for competitive packaging.
    - Difficulties in penetrating the retail sector in established markets.
    - High cost of inputs as well as expensive packaging materials, equipment and machinery.

The challenges can be addressed through additional investment in research in tea, product development and targeted promotion. (Source MoALD, 2024)

5.5 Costs-Benefits Analysis Assumptions

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

i. The Regulations will be implemented holistically, with all their provisions implemented.
ii. The countries and tea-producing counties' development strategies and political and policy environment will continue to prioritize and support the development of the tea value chain.
iii. The climatic conditions will remain favorable for tea production.
iv. Tea sub-sector value chain actors and all other auxiliary industry actors will respond rationally to the implementation of the proposed Regulations and voluntarily comply with them.
v. The additional revenue generated from the various fees and levies will be used to develop the tea subsector further.

5.6 Administration and Compliance Costs

The RIA noted that resources would be required for the operationalization of the Regulations. These will include human resources and operation costs for monitoring and surveillance of leaf quality, transportation, processing, manufacturing, and handling standards, inspections of tea factories and other industry actors, product development and value addition, diversified promotion and marketing of Kenya tea, and raising awareness of the Regulations among all the tea sub-sector and industry players.

It is also assumed that additional resources will go to the implementation of the wider national agricultural, industrialization, and trade policies that support tea production, manufacturing, value addition, tea product development, tea research and development, and agriculture provision, among others. Resources will also be required in the implementation of the Regulations, individual national tea, agricultural, industrialisation and trade strategies, Vision 2030, County CIDPs, the Government's Bottom-up Economic Transformation Agenda (BETA) and other relevant sector national policies and strategies.

5.7 Assessment of Return on Investment (Benefit)

Passing and operationalizing the proposed Tea (Registration and Licensing) Regulations, 2024, will be critical to facilitating the continued sustainable development of the Kenyan tea subsector and the full effective implementation of the Tea Act 2020.

Whereas it is difficult to directly apportion the impact of these regulations, whose primary objective is to create a framework for the registration and licensing of all tea industry actors, it is quite clear that industry regulation is a pillar for the transformation of the Kenyan tea industry.

Each of the different categories of industry players is critical for the efficient operation of the tea industry and is interdependent, with players in each node of the industry depending on the performance of the players in the other industry nodes. This means that the performance of the entire industry can be failed by any of the industry nodes, even those which may not seem to be very important. Similarly, the Kenyan tea brand's reputation in the global market is the result of the concerted efforts of all players across the industry. A compromise by any of the industry actors will hurt the brand.

These regulations also seek to generate additional resources for the Board to finance its operations to enable it to execute its mandate to bridge the increasing budget deficit arising from the reduced support from the exchequer. The additional resources to be generated from fees and levies prescribed in these regulations will allow the Board to increase investments in the development of key industry areas. These include the critical areas of tea research to ensure the development of technologies such as the breeding of new tea varieties adapted to the ever-increasing climate change effects and varieties adopted for marginal tea growing areas supplement production from traditional tea growing zones which are experiencing increasing land pressure. Further, to improve tea production and productivity, the regulations also seek to regulate the production of seedlings, which will ensure the production of adequate high-quality and suitable planting materials in every tea-growing region in the country. This will enable farmers to not only establish new tea fields but also replace the ageing and poor-performing tea fields.

The regulations will also pursue to restore the high-quality standards of tea, which Kenya is well known for but which has been on a decline in recent times. This will be done through enhanced monitoring and surveillance of leaf quality, green leaf transportation, manufacturing and handling standards. It will also discourage unbridled and cheap importation of tea through the introduction of a levy on imported tea, thus protecting the local tea industry from undue competition. It will further facilitate and support the development of an efficient and well-regulated tea sub-sector in the Country.

Implementation of the regulations will also create numerous additional employment opportunities, both on-farm to increase production and off-farm to provide auxiliary services in the industry.

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

i. Establishment of a clear and effective framework that will regulate the operations of all actors in Kenya's tea industry. These include tea brokers, small-scale tea growers, medium-scale tea growers, large-scale tea growers, commercial green leaf transporters, tea packers, tea buyers, tea importers, tea exporters, management agents, auction organisers, warehouse operators, commercial tea nurseries and tea manufacturers. This will enhance coherence and synergy in the continued development of the sector

ii. Increased research in tea will produce new high-yielding, drought—and pest-resilient varieties and new tea and tea derivatives products. This will meet the changing demographics, tastes, and preferences in the global tea market.

iii. Tea production and productivity increased due to the use of better-yielding varieties and increased use of clean, high-quality planning materials.

iv. Reduced green tea post-harvest and quality losses due to poor handling and transportation through enhanced surveillance and increased compliance with the leaf collection and transportation guidelines of these regulations.

v. Reducing or eliminating informal marketing of green leaf, commonly known as "hawking," through registration of all growers and enforcing growers' and factories' agreements.

vi. Reduce or eliminate growers' diversion of green leaf to ensure that each tea factory operates at the approved capacity for efficiency. This will further avoid factory losses from unpaid credit advances to growers.

vii. Regulation and discouragement of tea imports into the country will protect the local tea market from unbridled imports of cheap and low-quality tea, including imports from neighboring tea-producing countries. This will avoid distortion of demand in the domestic tea market and the threatened development of the local tea market.

viii. Maintaining or restoring the high-quality standards of tea which Kenya is well known for, but which has been on a decline in recent times. This will be through enhanced monitoring and surveillance of leaf quality, green leaf transportation, manufacturing and handling standards

ix. Increased tea value addition and production of branded and specialty teas will create additional jobs and business opportunities along the value addition and production of branded and specialty teas value chains.

x. Increased revenue from proposed levies and fees will enable the Board to better undertake its role in the industry including provision of various critical services offered by the Board, regulation of the industry and market development for Kenyan tea.

xi. Tea industry actors will benefit from an expanded and diversified tea market for their produce and products. They will therefore benefit from a better volume of offtake, price stability and better prices, and thus better returns from their investments.

xii. Increased quality tea exports and sales volumes resulted in increased foreign exchange earnings and thus improved balance of payments for the country.

xiii. Expansion into new markets for Kenyan tea, diversifying from over-reliance on the current traditional markets and thereby reducing tea price fluctuations. This will ensure producers of stable tea prices and reliable market outlets.

xiv. Increased incomes for tea producers resulting from the increase in tea production and good and stable prices. This will ensure improved livelihoods and social well-being of the rural communities in tea-producing regions

xv. Regulating tea imports and exports will control any illegal trade actions that can negatively impact the domestic tea and export markets distorting tea demand and prices.

6.0 Reasons Why Other Regulatory Options Are Not Appropriate

This section highlights reasons why other regulatory options identified above may not be appropriate for the tea subsector.

6.1 Option 1: Maintaining the *Status Quo*

Maintaining the *status quo* will mean the country does not fully operationalise the Tea Act 2020 and specifically does not put in place a framework to licence and register the tea industry actors. This will affect the surveillance and monitoring of their operations and compliance with the provisions of the Act, other relevant laws and guidelines that are in place to guide their individual operations for the good of the entire industry. It will also affect its competitiveness in the global arena. The Kenya tea industry is in dire need of additional investment in sector-critical areas such as tea crop research, product development and tea value addition, promotion of Kenya tea and market development for Kenya tea to maintain the country's edge in the world tea market. The Board, which plays a critical role in providing different services to the industry r, must continue to provide these services efficiently despite the reduced support from the Government, hence the need to generate additional resources.

Maintaining the status quo will impact on the tea sub-sector as follows:

i. The full implementation of all the provisions of the Tea Act 2020 will remain unachieved, and thus, the objectives of this Act will remain unattainable.
ii. The tea sector will remain without an effective framework to regulate the registration and licensing of the different tea sector actors for its sustainable development.
iii. The current increasing hawking of tea, which denies growers the full benefits of their investment, efforts and production, will continue. This will make tea a less profitable farm enterprise and, in the long run, make a less priority crop. This will lead to reduced production and acreage, and decline in quality
iv. Diversion of green leaf to other factories denies some factories deliveries from their recognized growers, forcing them to operate under capacity. This will make them unviable and deny such factories the opportunity to recover credit advanced to growers.
v. The loss of green leaf quality during handling at the tea buying centres, delayed transportation to the factories, losses due to non-collection of Greenleaf from the collection centres, and quality losses from using transport vessels not suitable for green leaf transportation or vessels continue.
vi. The quality of Kenyan tea for the market may continue to decline or remain low due to the continued loss of quality across the other different nodes of the tea industry.
vii. The highly regarded quality of Kenyan tea in the world market may continue to decline due to the cumulative losses in quality across the industry. This will reduce the current preference for Kenyan tea in the world market, reducing prices offered and volume uptake and thus reducing revenues from tea exports.
viii. Unregulated tea imports into the country will continue to expose the local tea sub-sector to competition from unbridled imports of cheap and low-quality tea, including imports from neighbouring tea producing, which distort local market tea demand and prices.
ix. The promotion of Kenyan tea in Kenyan tea market development, including diversification from the traditional markets, will not be realized. This may lead to holding stocks of unsold processed tea, which will affect payments to producers, affecting millions of Kenyans who derive livelihoods from the sub-sector.
x. Support for research in tea will remain limited to support the tea sub-sector's ability to respond to changing tea production technologies, demographic changes and changing tastes in the tea market. It will affect the ability of new tea products to remain competitive in the global arena.
xi. Non-regulating tea nurseries will continue to significantly limit the adoption and use of the many new high-yielding and high-quality tea varieties developed over the years through tea research for the establishment of new tea fields or in replacing old poor-performing tea fields.
xii. The industry will continue to remain without an accurate database of the different active actors in the tea sector, their operating capacities and levels of operations to inform sector decisions and policy development.
xiii. The provision of various critical services to the sub-sector will be affected by insufficient funding, which will negatively impact the general performance of the sub-

sector. The board will have to depend more on the Government to provide these services to the industry.

The situation is undesirable, and the RIA recommends that the proposed Regulations be implemented to realize the optimal development and regulation of the tea sub-sector for the benefit of all stakeholders in the industry in the country. In addition, this industry will effectively contribute to the realisation of the objectives of the Vision 2030, the Agricultural Sector Transformation and Growth Strategy, the National Agriculture Sector Strategy, the Government's Bottom Up Transformation Agenda and the respective tea producing Counties' CIDPs and other national policies and strategies on agricultural, trade, industrialisation and economic transformation.

6.2 Option 2: Other Practical Options

Alternatives to regulation include:

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

This may involve utilizing existing regulations, simplifying or clarifying them, improving their enforcement, or making legal remedies more accessible and affordable. However, this approach may not bring about significant change. The current status of the tea sub-sector in the country indicates that despite the Tea Act of 2020 providing for the registration and licensing of various tea industry actors—these provisions have yet to be fully realized. The current regulations seek to operationalize the registration and licensing aspects of the Act. Therefore, in the absence of any new interventions, the industry is likely to remain stagnant, which would be detrimental to all stakeholders in the sector and the country as a whole.

ii. **Information and education**

Information and education can empower stakeholders to make informed decisions, improving choices for the mutual benefit of all. However, this approach may take time to have an impact and might not always be well-received. Additionally, it could increase costs for the government, agencies, and businesses responsible for providing the necessary information and education. Consequently, the desired objectives for the common good are unlikely to be achieved unless the registration and licensing of actors in any industry are undertaken by the designated regulatory agency in an objective manner.

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

The government can utilize economic instruments, such as taxes, subsidies, and initiatives, to achieve its desired objectives. However, these initiatives are only feasible in well-developed and efficiently functioning sectors with clearly defined structures. Often, such systems require their own regulations to establish a framework, which may incur additional costs for the government. This makes them unlikely to be effective in Kenya's tea sub-sector and industry, which is fragmented and consists of multiple organizations, each representing different segments of actors driven by varying objectives and priorities. These regulations aim to establish a well-developed and functioning framework and structure for the different categories of industry sectors, enabling the implementation of incentives and market-based approaches.

6.3 Alternatives Models of Regulation

The alternative modes of regulating the tea sector include the following:

i. Self-regulation

Although the Kenyan tea sub-sector has multiple industry organizations—such as KTDA, KTGA, EATTA, and ITPAK—that could formulate and implement codes of conduct, customer charters, standards, or an accreditation system for self-regulation, these organizations do not provide comprehensive representation of all sector actors. As a result, effective self-regulation in the tea industry, as it is currently structured, is not feasible. Furthermore, regulating the registration and licensing of all industry actors cannot be conducted by those same actors, as they cannot effectively oversee and objectively monitor their own operations. Therefore, despite the presence of industry representatives, effective self-regulation is currently unattainable, hindering the realization of the objectives set forth in the Tea Act of 2020 and the proposed Tea (Registration and Licensing) Regulations 2024. This responsibility remains with the principal regulatory agency for the industry, the Tea Board of Kenya.

ii. Co-regulation.

Co-regulation serves as an intermediate step between state-imposed regulation and self-regulation, involving some degree of explicit government involvement. In this model, the industry collaborates with the government to develop a code of practice, with enforcement carried out by the industry or a professional organization accredited by the government. However, despite the clear potential benefits of co-regulation in an industry, the responsibility for registration and licensing of industry actors in the tea sector, as outlined in the Tea Act 2020, remains the legal mandate of the Tea Board of Kenya. This responsibility cannot be substituted by co-regulation. Nevertheless, the regulatory agency may engage various industry representatives in the operationalization and implementation of registration and licensing for these organizations, fostering their buy-in and cooperation.

7.0 Conclusion and Recommendation

The RIA has examined the history of tea registration and licensing in Kenya. If approved and effectively implemented, the proposed regulations will transfer the mandate of registration, licensing, and quality control of tea activities from the Agriculture and Food Authority to the Board. They will also ensure formal controls in the Tea industry and establish the necessary structures and environment, including compliance enforcement structures, for the benefit of tea traders and growers.

The RIA has stated the justifications for allowing registration and licensing laws in the sector and analyzed the effects of the proposed regulatory interventions, including fees and levies on the private and public sectors. In addition, the RIA has examined the economic, social, and environmental costs and benefits of the proposed regulations and the viability of the alternative options.

The RIA recommends a further public participation phase before and during the national validation workshop to collect final public views and consider the comments on the proposed regulations before gazetting and implementing them in the country's tea industry.