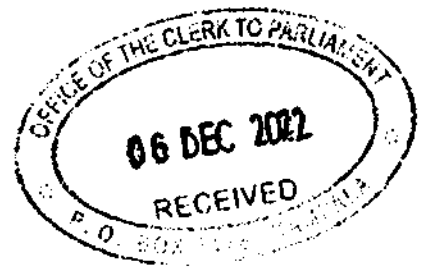




PARLIAMENT OF UGANDA



REPORT OF THE COMMITTEE ON TOURISM, TRADE & INDUSTRY
CONCERNING THE PETITION RAISED BY KAMPALA CITY TRADERS
ASSOCIATION ABOUT UNFAIR TAXATION AND THE HIGH COST OF
CREDIT

Parliament Buildings

Kampala

October 2022

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ACRONYMS

EAC	-	East Africa Community
URA	-	Uganda Revenue Authority
TT&I	-	Tourism Trade and Industry
VAT	-	Value Added Tax
KACITA	-	Kampala City Traders Association
UDB	-	Uganda Development Bank
EFRIS	-	Electronic Fiscal Receipting and Invoicing Solution
HS	-	Harmonized Commodity Description and Coding System
SMEs	-	Small and Medium Enterprises
MSMEs	-	Micro, Small and Medium Enterprises
CPC	-	Customs Procedure Codes
VATA	-	Value Added Tax Act
EACCMA	-	East African Community Customs Act
UNBS	-	Uganda National Bureau of Standards
UBOS	-	Uganda Bureau of Statistics
PAU	-	Poultry Association of Uganda

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1.0 INTRODUCTION

The Committee on Tourism, Trade and Industry hereby presents its report on the petition raised by Kampala City Traders Association regarding unfair taxation and high cost of credit among other issues that the business community in Uganda is facing in the post Covid-19 era. Pursuant to its mandate, the Committee undertook an investigation into the issues raised and has agreed to report the following:

2.0 BACKGROUND

The outbreak of Corona Virus Disease in 2019 (COVID-19) has had an unprecedented social-economic impact on the global economy. As a result of the pandemic and subsequent containment measures, businesses activities have slowed down, leading to loss of livelihoods for several people. According to World Bank, COVID-19 and its containment measures pushed 40 to 60 million people into extreme poverty due to losses of livelihoods that resulted from disruptions in business operations. The International Labour Organisation (ILO) and UNIDO report estimated an increase in unemployment of 25million in 2020 with losses in labour income of up to US\$3.4 trillion¹.

Due to the shrinking of most economies, the volume of trade shrunk and most factories found unit costs of production untenable due to limited sales especially as most consumers are undertaking austerity measures to keep afloat. Despite the relaxation of COVID-19 containment measures especially lifting of the lockdown, the emergence of MSMEs from lockdown was much more challenging. On one hand, the majority of the businesses are experiencing liquidity challenges. On the other hand, access to credit is limited as financial institutions remain pessimistic about the businesses' future. Employment recovery remains

¹ <https://libertystreeteconomics.newyorkfed.org/2020/03/fight-the-pandemic-save-the-economy-lessons-from-the-1918-flu.html>

very sluggish as business sales have not fully recovered. A recent study by the Economic Policy Research center revealed that recovery of employment is much slower in MSMEs in the services sector than in agriculture and manufacturing, alluding to the severity of the pandemic's impact on the sector.

Although government has tried to put up incentives to encourage the traders to continue in business these incentives have had little impact, for instance the money allocated to Uganda Development Bank to offer low interest financing to businesses and private sector firms to support them in their businesses, many traders have not been able to access this money because of the many reasons, including; the long procedures involved in accessing the funds and the businesses prefer to deal with local financial institutions compared to the Uganda Development Bank.

3.0 RATIONALE FOR THE COMMITTEE INVESTIGATION

The Sectoral Committee on Tourism, Trade and Industry derives its mandate from Article 90 of the Constitution of the Republic of Uganda², and accordingly, Rules 156³, 159⁴, 187⁵ and 189⁶ of the Rules of Procedure of Parliament. These provisions enjoin the Committee with the authority and power to, among others,

² Article 90(1) provides that Parliament shall appoint committees necessary for the efficient discharge of its functions. In 90(2), Parliament shall, by its rules of procedure, prescribe the powers, composition and functions of its committees.

³ Rules 156(1) & (2) reiterate the above constitutional provisions.

⁴ As all other committees, its general functions, according to rule 159 include: assessing and evaluating activities of Government and other bodies (in para. (c)); carrying out relevant research in the committee's respective field (in para. (d)); and reporting to Parliament on its functions (in para. (e)).

⁵ Rule 187(1) provides for the existence of Sectoral Committees of the House, and in sub-rule (2)(b), there shall be a Sectoral Committee on the Tourism, Trade and Industry sector.

⁶ Specifically, as a Sectoral committee, rule 189 charges it with functions that include: to examine and comment on policy matters affecting the Ministry of Trade, Industry and Cooperatives and the Ministry of Tourism, Wildlife and Antiquities (in para. (a)); to initiate or evaluate action programmes of the said ministries and their sectors and to make appropriate recommendations on them (in para. (b)); to monitor the performance of Ministries, Departments and Agencies (MDAs) (in para. (c)); to monitor Government compliance with approved plans and programmes (in para. (d)); and to monitor the progress on implementation of the Sustainable Development Goals (SDGs) made by the tourism, trade and industry sector (in para. (e)).

research, investigate and carry out oversight functions with respect to the Ministries, Departments and Agencies (MDAs) under its purview.

On the 27th of September 2022, Kampala City Traders Association (KACITA) petitioned the Parliament of Uganda to make interventions in relation to the challenges faced by the business community in Uganda particularly the unfair taxation and high costs of credit among other issues. The Rt. Hon. Speaker of Parliament at the 34th sitting of the 1st meeting of the 2nd session of 11th Parliament, directed that the Committee of Tourism, Trade and industry considers the matter and reports back to Parliament.

4.0 TERMS OF REFERENCE

In executing its mandate, the committee was guided by the following Terms of Reference:

- To intervene in the matter and carry out an exhaustive investigation into the issues raised in the petition of Kampala City Traders' Association concerning unfair taxation and the high cost of credit.
- To explore and give recommendations to the issues raised in the petition and report back to Parliament.

5.0 METHODOLOGY

The committee employed the following methods;

5.1 Meeting with stakeholders

The committee held meetings and received a number of verbal testimonies from key witnesses, several of whom presented written memoranda. Witnesses included leaders and officials from the following institutions:

- The petitioners; Kampala City Traders Association;
- Uganda Revenue Authority;
- Uganda Animal Feeds Manufacturers Association;
- Poultry Association of Uganda;
- Murwana J. Peters Stores Limited, Animal Feeds.

5.2 Desk Research

The Committee carried out research including sending samples to Government laboratories for testing in order to back up some of the Committee's findings with facts.

The Committee also reviewed the tax laws of Uganda in order to establish the tax regime pertaining the issues raised in the petition.

6.0 FINDINGS, OBSERVATIONS AND RECOMMENDATIONS OF THE COMMITTEE

The Committee examined the petition submitted, conducted stakeholder consultations, received memoranda and scrutinized documentary evidence available during the investigation. The committee therefore presents the following findings, observations and recommendations:

6.1 Specific concerns raised by Kampala City Trader's Association

The following concerns were raised by KACITA in its petition to Parliament;

- 1) High cost of Capital and cumbersome loan appraisal process;
- 2) Poor mode of Implementation of the Electronic Fiscal Receipting and Invoicing System (EFRIS).

6.1.1 High cost of Capital and cumbersome loan appraisal process

The Committee was informed by the petitioners, that the procedures to access funds from UDB are hectic and challenging to most local business people and yet borrowing from commercial banks is very costly. It should be noted that the Government of Uganda in addition to the existing capital, allocated UGX. 455.18 Billion COVID 19 stimulus package in FY 2019/20 to Uganda Development Bank (UDB) in an effort to provide the much needed business cover to keep businesses afloat during and after the COVID-19 pandemic and thereby stimulate the economy. Under the program a minimum loan threshold is UGX 100 million, at an interest rate of 12% per annum for a repayment period of up to 15 years plus

a 3-year grace period. Additionally, potential borrowers must be registered legal entities or groups. The committee was further informed that to-date, most SMEs who were the main target of the program have failed to access the money.

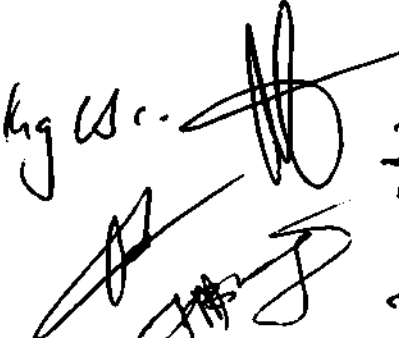
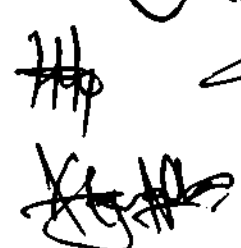
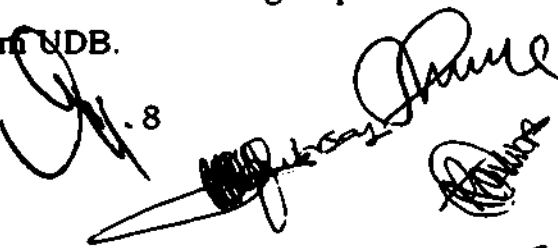

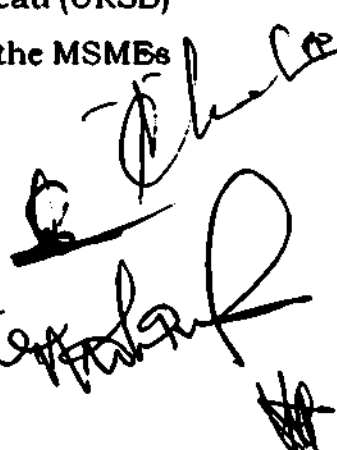

The committee established that Uganda Development Bank is mandated to provide finance in form of short, medium and long term secured loans; equity financing and project preparation; business advisory services to Micro Small and medium Enterprises (MSMEs), and large-scale development projects in the key priority sectors of agriculture, agroindustry, and manufacturing.

KACITA is mainly comprised of MSMEs and the Committee observed the following;

a) UDB lending interest rates: The Committee also established that UDB disburses its loans at interest rates between 10-12 per cent per annum and the applicant has to pay appraisal fee of 0.75% to 1% which is still high for a recovering businesses which makes UDB more of a commercial Bank than a development bank.

b) UDB cumbersome credit appraisal process: it was established that UDB's credit approval process and high minimum lending thresholds of UGX 100 million are biased towards large corporate borrowers who have better business plans, better credit ratings and higher profitability. This discourages many of the MSME's who are largely informal and focused on low productivity activities.

c) UDB legal registration requirements make credit inaccessible to most MSMEs: According to the Ministry of Trade, industry and Cooperatives, a greater percentage of MSMEs are unregistered and operate informally and yet these businesses are the backbone of economic growth in Uganda. However, to access financial services from UDB, MSMEs must have undergone the legal process of forming a corporate entity with the Uganda Registration Services Bureau (URSB) or to have registered as a Cooperative or farmer group. This alienates the MSMEs from accessing the finance from UDB.

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e) **UDB reliance on land titles as collateral** excludes MSMEs who are most financially constrained: The Committee observes that financial institutions generally do not sanction credit to most MSMEs due to lack of significant collateral; and the situation is not any different with UDB. It was established that collateral is discounted to the forced sale value which disadvantages MSMEs in accessing the loans above the threshold of UGX50M from UDB.

The Committee further observes that information about the performance of COVID 19 financial interventions is very scanty and the fund is sandwiched with the existing bank capital which is offered at same credit terms and conditions. This may point to lack of transparency and poor accountability of these special purpose funds.

The committee reiterates its earlier recommendation that; the Auditor General should audit the management of economic stimulus relief funds to ascertain the bottlenecks in the disbursement of funds, and provide recommendations.

UDB should redesign the credit terms and condition to target the right beneficiaries. Government should introduce interest capping for UDB special programs and remove all application fees for MSMEs.

6.1.2 Poor mode of Implementation of the Electronic Fiscal Receipting and Invoicing System (EFRIS)

The Electronic Fiscal Receipting and Invoicing System (EFRIS) is a system that was introduced by URA in May 2020 to improve business efficiencies and reduce the cost of compliance through improved record keeping among taxpayers and mitigate tax administration shortfalls while promoting compliance efficiency. This system was supposed to be installed in Trader's premises under the instruction of a consultant so that all transactions can be reflected on the URA systems. URA informed the Committee that they undertook several engagements with individual businesses and associations in preparation for the implementation.

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According to URA, "big supermarkets" were invited to participate in the voluntary pilot phase to adequately prepare them for the implementation because they already had existing business transaction systems that could easily be integrated into EFRIS. Furthermore, URA informed the Committee that virtual sensitizations were undertaken amidst COVID 19 pandemic. VAT registered customers were also encouraged to use self-learning videos that were available to be downloaded and viewed from the comfort of their homes or offices.

URA further informed the Committee that there was a general outcry from the business community to have an extension for the EFRIS implementation. This request was acknowledged and granted to all VAT registered tax payers for three (3) months from 1st July 2020 to 30th September 2020. A further extension request was also made by Uganda Manufacturers Association for an additional three (3) months, which was also granted to all tax payers. URA informed the Committee that during the extension period, they continued with the sensitization and training of tax payers on EFRIS.

On 1st January 2021, URA rolled out EFRIS implementation and gave tax payers another grace period of 10 months from 1st January 2021 to 30th September 2021 before enforcement. According to URA, training and hand holding sessions were held with the tax payers at their premises to support the implementation when lockdown was eased. On 20th September 2021, URA issued a public notice requesting the tax payers to comply. However, this compliance action did not start immediately according to URA and to date they are working with KACITA to ensure compliance through having weekly radio talk shows discussing URA initiatives including EFRIS.

Furthermore, URA informed the Committee that they have created dedicated Units for both EFRIS and Domestic Taxes; to on board, train, sensitize and hand hold tax payers on the use of these new solutions. URA brought to the attention of the committee that there are several compliance measures put in place such as; penalties, denial of tax benefits, increased physical monitoring by URA staff,

Furthermore, KACITA informed the Committee that whereas URA responded that they had embarked on a mass sensitization campaign to educate tax payers on the features of this new system, the trainings were accessible to a selected few members of the public and henceforth EFRIS remained a mystery to many traders.

The Committee also carried out research and observed that this system requires that taxpayers identify the products or services they deal in from the URA's pre-set database, which poses some challenges. It should be noted that businesses in Uganda today are very innovative and package their services or products to customers in unique ways that may not have been provided for in the URA's database. It is therefore hard to assume that the URA's database of products and services categories is exhaustive.

The committee also observes that some businesses in Uganda are owned and run by uneducated businessmen and women. This would therefore increase the cost of business since it requires the hire of an extra educated person just to run the system.

The committee observes that this system will help URA efficiently collect taxes when fully implemented.

6.2 Concerns raised by Uganda Poultry Association of Uganda

6.2.1 Misclassification of Animal Feed Concentrates as Premixes

The petitioners informed the Committee that Uganda Revenue Authority (URA) is undertaking an exercise of reclassification of concentrates used in animal and poultry feeds to attract import duty of 10% and Value Added Tax of 18%. According to the petitioners, this is an illegal and irregular imposition of tax which has grave implications for trade across the Ugandan borders and within the East African Community. The petitioners aver that URA is demanding that they sign promissory notes to the effect that they shall pay the Authority Value Added Tax (18%) and import duty (10%) on concentrates used in animal and

poultry feeds that were imported since 2017. According to the Petitioners, clearance from customs is conditional to the undertaking of the promissory note to this effect.

URA informed the Committee that during their routine desk audit, it was established that importers of concentrates have been misclassifying concentrates as premixes under subheading 2309.90.10 which attracts import duty of 0% as opposed to 2309.90.90 for "others" which attracts 10% import duty.

URA further informed the Committee that they established that the importers have also been making declarations of imported concentrates under Customs Procedure Code 478 which is for animal feeds and premixes and exempt from Value Added Tax (VAT) under the second schedule of the Value Added Tax Act specifically item 1 (qa). According to URA, the traders have been avoiding paying the 18% VAT on the imported concentrates and the import duty of 10% by misclassifying them as premixes. This, according to URA, has led to loss of revenue to Government and the Authority now seeks to recover the said taxes from the traders since 2017.

According to URA, a concentrate is not a premix and therefore does not constitute supplies that are exempt under the second schedule to the VATA. URA avers that whereas "premix" is composed of minerals and a base, a concentrate is composed of premix and protein feed. It is generally added in the feed between 10% and 30% and then mixed with corn, bran and others to make a complete animal feed. Available protein feed resources are either of animal (fish meal, meat and bone meal) or plant origin(soybean meal, sunflower meal, cotton seed cake and ground nut cake) there are also under-utilised or neglected protein sources such as pigeon peas, cowpeas and chickpeas. A complete formula granulate feed is therefore composed of premix, protein feed and energy feed. It is processed through crushing, mixing and granulating processes and can fully meet the growth needs of livestock and poultry. The feed granules can

be directly fed to animals. The Committee was informed by (URA) that the decision to re-classify concentrates was based on the system risk analysis checks of the Trade Division of Customs, who conduct periodic system analysis and raise alerts and demand notices when issues are identified.

However, the petitioners and importers of concentrates disagree with URA on the alleged misclassification of concentrates. They contend that animal concentrates and feed ingredients though regarded as such, have the same characteristics as the products traded as premixes. According to them, the difference only lies in the levels of substance inclusion and concentration or percentages which in essence, does not negate the consideration of them as premixes. The traders contend further that tariff 2309.90.10 which is the subheading for premixes used in the manufacture of animal and poultry feeds, applies to all substances of various trading names used in the manufacture of animal and poultry feeds, as long as they are a compound composition of several substances. The importers contend that concentrates are premixes for use in the manufacture of animal and poultry feeds and should be classified as premixes exempt under the second schedule of the VAT (Amendment) Act, 2017 and therefore attract neither VAT nor import duty.

The petitioners and importers further aver that, the reclassification is a very unfair trade practice which seeks to impose tax on small scale importers and traders and the final consumer or farmer and leaving out the large scale farmers and importers through the exemption regime under the East African Community Customs Management Act, 2004.

While appearing before the committee, the ministry of Finance, Planning and Economic Development which is the line Ministry that sponsored the VATA (Amendment Bill 2017) informed the committee that concentrates are premixes for purposes of exemptions under VATA. The ministry further informed the committee that it was envisaged that all preparations, ingredients, inputs and other compositions for animal feeds were exempt under VATA.

ATTORNEY GENERAL'S OPINION

The Attorney General submitted a legal opinion on the issue of taxes to the Committee. Whereas the Committee appreciates his legal guidance, the Committee observes that the Attorney raised and resolved the issue of whether animal feeds, concentrates and others that fall in that category are exempt supply under the VATA?

In resolving the issue, the Attorney concluded that a concentrate is an ingredient or component of an animal feed and as such it cannot be defined to be an animal feed since it is even unsafe if fed free choice or alone to an animal and is not an exempt supply or import under VATA.

Firstly, the Committee is aware that animal feeds are exempt supplies under section the VATA and as such, not under contention.

Secondly, it is the Committee's considered opinion that the matter under contention is whether concentrates are not premixes envisaged under the exemption of section 19 the VAT (Amendment) Act 2017. In other words, the Committee required legal guidance on whether the re-classification of concentrates as imports attracting import duty and VAT as proposed by URA is legal and justified in view of the VATA, (EACCMA), the CET and the Treaty establishing the EAST African Community as a whole.

Whereas the Committee agrees with the Attorney general in as far as his conclusion that concentrates are ingredients or components of an animal feed, the Committee is of the view that concentrates are indeed premixes or preparations used in animal feeds and are therefore exempt both under the VATA and the EACCMA as discussed further here under.

VALUE ADDED TAX REGIME IN UGANDA, KENYA AND TANZANIA.

The Committee observes that the VATA of Uganda provides for tax rates of 18%, 0% or exempt. Section 19(1) of the Value Added Tax Act, Cap. 349 provides that the supply of goods or services is an exempt supply if it is specified in the second schedule of the VATA. The second Schedule of the VATA, was amended by the Value Added Tax (Amendment) Act, 2017 to exempt VAT on crop extension services, animal feeds and premixes as follows;

19. Exempt supply

(1) A supply of goods or services is an exempt supply if it is specified in the Second Schedule.

"Schedule 2. Exempt supplies.

The following supplies are specified as exempt supplies for the purposes of section 19.

"(ga) the supply of animal feeds and premixes;

(r) the supply of animal feeds"

The Committee observes in as far as the exemption of animal feeds and premixes from VAT, it is not in contention that these are exempt supplies. The Committee further observes that the area of contention emanates from the sudden and rather unprecedented decision of URA to classify concentrates under a different code from that of premixes.

The Committee therefore reviewed some of the VATA of other Countries within the East African Community and established that under the Value Added Tax Act of Kenya; exempt supplies are provided for under the first schedule. Item 43 under the first schedule provides for **"materials, waste, residues and by-products whether or not in the form of pellets and preparations of a kind**

used in animal feeding of tariff numbers 2309.90.10 and 2309.90.90 among many others."

The Committee further established that under the VAT Act, Cap.148 of Tanzania, part 1 of the schedule provides for exempted supplies to include "livestock, basic agricultural products and food for human consumption" and **"preparations of a kind used in animal feeding" under subheading 23.09**. The Committee established that under the VATA of Tanzania, oil cake of soybeans, oil cake and other solid residues of cotton seeds, oil cake and other solid residues of sunflower seed, maize bran, wheat bran, lysine, Methionine, Mycotoxin binders, pollard, rice bran and cotton cake are all exempt.

The Committee observes that **tariff numbers 2309.90.10 and 2309.90.90** are both exempt under the VATA of Kenya and Tanzania as it is the contention of the petitioners.

It is the considered opinion of the Committee that the allegation of URA, therefore, that the petitioners are misclassifying concentrates is misconceived.

The Committee observes that the plight of the petitioners arises both from the allegation of URA that the traders are misclassifying concentrates and also from the decision of URA not to consider all items classified under 2309.90.10 and 2309.90.90 as **"preparations of a kind used in animal feeding"** exempt both under VATA and section 114 of the East African Community Customs Management Act (EACCMA).

The Committee further observes that the decision of URA is rather outstanding and divergent in the East African Community (EAC) since both Kenya and Tanzania exempt all **"preparations of a kind used in animal feeding"** under the said codes.

IMPORT DUTY UNDER THE COMMON EXTERNAL TARIFF (CET) OF THE EAST AFRICAN COMMUNITY.

The Committee observes that currently in the East African Community, import duty is imposed under article 12 of the Protocol on the establishment of the East African Community Customs Union which establishes a Common External Tariff (CET). Accordingly, under Annex 1 to the Protocol on the establishment of the East African Community Customs Union, Harmonized Commodity Description and Coding System⁷, the structure of the EAC (CET) has a four band external tariff with a minimum rate of 0%, 10%, 25% and a maximum of 35% in respect of all products imported into the Community with effect from 1st July 2022.

The Committee further observes that chapter 23 of the East African Community Customs Union, Harmonized Commodity Description and Coding System, classifies code 23.09 under the description of **"preparations of a kind used in animal feeding"**. Code 2309.10.00 is under the description of **"Dog or cat food put up for retail sale"** and is rated at 35%. Code 2309.90.10 is classified as **"premises, used in the manufacture of animal and poultry feeds"** rated at 0% while Code 2309.90.90 is classified as **"other"** and rated at 10%.

The Committee observes that notwithstanding the classification of code 2309.90.90 as "other" and subjecting such supplies to 10% import duty under the coding system, section 114 of the EACCMA provides for an exemption regime for **agricultural-inputs** as prescribed under item 15 of part B of the 5th Schedule to the Act.

The Committee further observes that Kenya and Tanzania expressly exempt all preparations of a kind used in animal feeding from both Value Added Tax and import duty. The countries achieve this through providing for the codes 2309.90.10 and 2309.90.90 as exempt under their Value Added Tax Acts and under the East African Community Customs Union, Harmonized Commodity

Description and Coding System, by classifying them generally as **"premises for use in the Manufacture of animal and poultry feeds"** whether at the level of concentrates or not; under subheading 2309.90.10, which attracts 0% import duty.

The Committee with considered disappointment observes that the proposal by URA to classify concentrates under subheading 2309.90.90 as "other" under the EAC Customs Union, Harmonised Commodity Description and Coding System, will result into Uganda being the only country in the East Africa Community which classifies concentrates as such and therefore against the harmonised commodity description and coding system as well as the structure of the East African Common External Tariff.

The Committee with dismay, further observes that should Uganda be the only country in East Africa to classify concentrates under the subheading "2309.90.90" and consequently imposing both VAT 18% and 10% import duty on "preparations for use in the Manufacture of animal and poultry feeds" this would have a seemingly retrospective effect, by increasing the cost of production of animal and poultry products thereby disadvantaging Uganda's animal and poultry products on the EAC market. For example, a tray of eggs in Uganda currently costs UGX 12,000, while in Kenya, it costs UGX 15,000 and in Tanzania UGX 17,000. Effectively, our eggs which have been the cheapest in the region would be projected to cost approximately UGX 20,000 upon reclassification of concentrates as taxable premises for use in the manufacture of animal and poultry feeds and yet these are exempted by all the other countries in the East African Community.

The Committee further observes that the decision to reclassify concentrates under subheading 2309.90.90 was not critically analysed by URA and it contravenes the Value Added Tax (Amendment) Act, 2017. This is because, the Act generally exempts both 'the supply of animal feeds and premises' and does not specify or categorises premises as URA seeks to do. This means that, a

The Committee is distressed to observe further that indeed, the contention by the petitioners and importers that the reclassification of concentrates to attract VAT 18% and import Duty 10% will only serve the interests of the big players in the agricultural produce chain at the expense of the majority small traders and farmers in Uganda is correct. This is because, horticulture, aquaculture, agriculture or floriculture inputs are provided for under the exemption regime in section 114 of the East African Community Customs Management Act; Consequently, the following supplies are exempt from import duty-

(b) Poultry parent stock imported by persons engaged in poultry farming as authorised by the Director of Veterinary Services and subject to such conditions and limitations the Commissioner may impose, inter alia.

Biyinzika will be exempted from paying taxes because they are importing inputs for use, the small players in the industry, the importers who import to resell to retailers and the majority small scale farmers in Uganda will have to incur the taxes. As an end result, the final products of these small players, farmers, traders

IV. Import tax incentives: deviations from statutory VAT and tariff rates (e.g. Duty Remission Scheme)

According to URA, it is estimated that revenue foregone due to tax incentives amounted to approximately 2.4 Trillion Uganda Shilling (approximately 652 million USD) over the fiscal years 2014/15 to 2017/18, with approximately one third of this figure stemming from Corporate Income Tax incentives and two thirds incurred from tax incentives in place in Uganda's customs system. To put these estimated losses into perspective, the estimated fiscal cost of Uganda's tax incentives in 2017/18 was 888 billion UGX, corresponding to around 3% of total budget for 2017/18 or almost 1 percent of GDP in 2017.

The Committee is shocked that URA would choose to constrain the agricultural sector by imposing more taxes on farmers and importers of agricultural inputs as opposed to assessing and re-evaluating tax incentives as a means of expanding the tax base.

Reference to the "The Animal Feeds Bill" by URA as remedy for the petitioners

While appearing before the Committee, URA, alluded to the Animal Feeds Bill, 2020 and submitted that it, together with the Ministry responsible for Agriculture intend to harmonise their positions and rely on the definition of premixes under the Animal Feeds Bill once passed by Parliament to resolve the matter now before the Committee.

The Committee observes that this is irregular, legally untenable, inapplicable and anticipatory.

Firstly, the Animal Feeds Bill is neither an Act of Parliament nor a tax law and not even yet a proposal for enactment before Parliament. The Committee with disappointment notes that the alleged Bill does not merit reference as a remedy for the petitioners in this regard.

The Committee further observes that the anticipatory interpretation therein to be used to govern and apply tax laws in Uganda is misguided and it is quite shocking that the same is used as a reference point for the taxation authority of Uganda, URA. The Committee was informed that the Cabinet approved the principles of the Bill, in January 2019, however, the Bill has never been tabled in Parliament despite the numerous problems being faced in the agricultural sector due to the lack of a regulatory framework for animal feeds. The Committee observes that there has been an attempt at a private member's Bill due to the continued delay by the Government to bring the said Bill to Parliament for enactment.

The Committee further observes that since the Bill is yet to be tabled before Parliament for consideration, it cannot be relied upon in any way as a means of justifying or providing remedies for the petitioners.

6.2.2 Available raw materials for making concentrates and their production capacities in Uganda

The Committee was informed by URA that the "protein" composition of concentrates are readily available on the Ugandan market and the importation of the same should be discouraged through the imposition of tax and hence the justification for reclassification of concentrates. On the other hand, however, the importers/ petitioners contend that the region and Uganda do not have capacity to manufacture or supply these products and therefore they are justified to import them.

The importers further contend that the quality of protein composition of concentrates on the Ugandan market is highly adulterated and not suitable for making quality feeds for their animals hence the need to import.

The committee was informed by the petitioners, KACITA, that the available raw materials for making concentrates include soya, sunflower and silver fish (mukene). These raw materials are locally sourced. However, manufacturers of

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feeds also import items that are not produced in the country which include amino acids, vitamin-mineral premixes and small additives like enzymes to improve digestibility. These are high end items mostly imported from Europe.

According to statistics obtained from Uganda Bureau of Statistics, the Average soya bean production has increased from just 25,730 MT in 2016 to over 160,000MT in 2020. The poultry association of Uganda has attributed this growth not to human consumption but to growth animal and bird populations which in turn increased the demand of animal feeds that utilizes soya beans as a key component in its production. The Committee was however informed that Most of our soya is exported out of the country, leaving small amounts for the local buyers. The scarcity of soya in the country has pushed soya prices up and high in the recent years which has forced producers to resort to the importation of concentrates.

The committee observes that locally manufactured concentrates and animal feeds are more expensive than the imported concentrates. For example, a kg of layer feeds mixed with imported concentrates cost UGX 2,250 compared to UGX 2,800 for locally packed feeds.

6.2.3 Chicken and eggs production in Uganda

Table 2: Chicken and eggs production, imports and exports

Crop	2016	2017	2018	2019	2020**
Chicken import (Kgs)	85,089	4,382	4,090	100	125
Chicken export (Kgs)	173,997	905,115	189,551	492,500	638,830
Eggs Export (Kgs)	1,985,460	823,384	623,484	133,760	104,455

Source: MAAIF and UBOS ** 2020 estimates

It is evident from the Table 2 above that importation of chicks has reduced tremendously from 85 MT in 2016 to just 125 kgs in 2020. This has been attributed to the increased investment in the poultry industry. On the other hand, exports has increased and Uganda currently exports to south Sudan and DRC. The low exports in 2020 was as a result of the COVID 19 pandemic which affected business at all levels.

The committee was informed by Poultry Association of Uganda that Kenya's egg production capacity has been growing at an annual rate of 5% for the last 10 years, with a current annual capacity of 110,000 MT of eggs.

The Committee notes that the export of Eggs from Uganda has been reducing over the years and this is as a result of the existing non-tariff barriers and un-competitiveness arising from increased cost of feeds.

The Committee was informed that the most significant percentage of birds which support the poultry industry sector are imported as day-old chicks which are produced through scientific methods and therefore require appropriate practices to be nurtured. To achieve this, efficacy of the feed is vital. However, the committee was informed that animal feed standards in Uganda has consistently been low, particularly for poultry layers. The Committee was further informed that many farmers have had layers fail to lay eggs, laying small eggs, laying eggs with yorks that depict low mineral intake and laying for a relatively short time.

The Committee was also informed that the current challenges of feed is further grounded by the delay to pass the "Animal feed Bill" which is supposed to regulate the sector appropriately. The Committee observes that the absence of this law has led to the entry of many players who lack the appropriate knowledge and skills to manufacture feeds.

Quality of animal feeds

Upon receiving allegations of poor quality feeds, the Committee picked samples from Biyinzika Poultry International Limited and Ugachick Poultry Breeders Ltd, who are currently considered top manufacturers of animal feed in the country. These samples were subjected to tests at the Directorate of Government Analytical Laboratory (DGAL). Nutritional requirements and heavy metals were analysed in accordance with the requirements for compounded poultry feeds (Ugandan standard US EAS 90:2018).

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Results from the samples revealed that the samples conformed to all the nutritional and the limits of heavy metal requirements when tested against the US EAS 90:2018 compounded poultry feeds specification.

The committee therefore, finds that the quality of the sample of the feed taken from the two manufacturers meets the nutrition requirements. However, this is not conclusive since the committee only considered two manufacturers out of thirty-one.

Therefore the assertion that the importers prefer imported concentrates as opposed to locally produced animal feeds due to low quality, unpredictable quantity and unregulated sector of animal feeds in Uganda cannot be ignored. The committee observes further that whereas URA deemed it fit to tax concentrates as a means of protecting and encouraging local production of animal feeds, the local feeds sector should instead be regulated to improve the quality of locally manufactured feeds.

6.2.4 Imports of concentrates and animal feeds per year

According to statistics provided by URA, Uganda imported 48.3 million kilograms of premixes worth UGX 130. 7 billion and 37.5 million kilograms of concentrates worth UGX 50.1 billion in the year 2020. In 2021, the importation of these products further increased both by value and volume. 90.6 million Kilograms of premixes worth UGX 263.1 billion and 60.8 million kilograms worth UGX 94.7 billion was imported in 2021.

The committee observed that Majority of these premixes and concentrates are being imported from Netherlands and Belgium. The committee was informed that these countries produce high quality feed premixes and concentrates.

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Value in Millions UGX

Category	2020	2021
Premiums(2309.90.10)	130,797	263,182
Concentrates(2309.90.90)	50,128	94,670

Weight (Kg)

Category	2020	2021
Premiums(2309.90.10)	48.3	90.6
Concentrates(2309.90.90)	37.5	60.8

6.2.5 Capacity of local producers/manufacturers of premixes and concentrates used in animal feed production

Furthermore, the local manufactures also stated that some of the ingredients required to produce a premix are not readily available in Uganda and hence they can only get them through importation.

According to an expert in the sector, the livestock sector alone requires approximately 600,000 MT of feeds a year, of which 72% are for poultry, 19.4% are for pigs, 8.5% dairy feeds while others constitute 0.1%. However, the installed capacity of recognised feed producers that include Ugachick, Biyinzika, Impala, SR chick and HMH rainbow limited is only 100,000 MT. however even then, their

actual production is approximately 60,000 MT per year. This gives a deficit of approximately 500,000 MT which is covered by farmers using concentrates.

The experts further say one of the challenges facing local production of animal feeds production is the lack of protein feed sources especially soya and mukene (silver fish). Given the amount of feeds consumed annually, there is need for approximately 70,000 MT of protein sources (silverfish or soya) to cover the current market.

As a result of the deficit, the local livestock sector is currently dominated by foreign animal feeds mainly concentrates because of deliberate or ignorantly done adulterations, degradations and poor handling of locally processed feeds. For example mukene (silverfish is mixed with sand in order to increase its weight. Maize which is infested with aflatoxins is processed into bran broken.

Table 3: the capacity of local producers/manufacturers of premixes and concentrates used in animal feed production.

No	TAX PAYER'S NAME	2021	2022
1	NILE BREWERIES LIMITED	10,878,219.88	32,123,328.99
2	UGANDA BREWERIES LIMITED	2,191,606.00	2,089,006.33
3	BUSHENYI COTTON LIMITED	-	81,867,400.00
4	BAJABER MILLERS LIMITED	177,081,850.00	497,244,000.00
5	BAKHRESA GRAIN MILLING UGANDA LIMITED	1,796,180.25	1,489,839.75
6	KENGROW INDUSTRIES LIMITED	259,882,650.00	314,698,800.00
7	ENGAANO MILLERS LIMITED	945,636,000.00	629,105,550.00
8	MUKWANO INDUSTRIES (U) LTD	1,519,195,000.00	1,237,892,000.00
9	NILE AGRO INDUSTRIES LIMITED	601,951,500.00	606,165,000.00
10	UGACHICK POULTRY BREEDERS LIMITED	12,859,600.00	6,681,050.00
11	MAGANJO GRAIN MILLERS LTD	206,334,300.00	1,249,722,850.00
12	Sunrise Commodities & Miller's (U) Ltd.	4,310,000.00	2,377,500.00
13	Kakira Sugar Ltd	16,950,000.00	10,796,000.00
14	ADMA INTERNATIONAL LIMITED	960,325.00	1,204,250.00
15	AHMED RAZA FOODS INDUSTRIES LIMITED	119,712,000.00	68,697,000.00
16	GURU NANAK INVESTMENTS (U) LIMITED	1,505,000.00	550,000.00
17	MOUNT MERU MILLERS UGANDA LIMITED	1,646,616,500.00	934,671,657.75
18	MMP AGRO INDUSTRIES LIMITED	2,126,640,933.05	1,243,687,900.00
19	AFRO-KAI LIMITED	3,331,407.14	1,106,950.00
20	GURU NANAK OIL MILLS (U) LTD	13,005,400.00	10,500,000.00
21	MASTER GRAIN MILLING LIMITED	52,654,251.00	18,218,500.00
22	SOUTHBASE AGRO INDUSTRIES LIMITED	15,143,050.00	6,721,950.00

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23	HMH RAINBOW LIMITED	332,315,400.00	228,132,050.00
24	Meena Industries Ltd	6,197,400.00	36,611,348.00
25	ARISE AND SHINE MAIZE MILLERS LIMITED	325,876,200.00	54,622,715.00
26	BAKHITA TWASE PRODUCE LIMITED	12,160,000.00	7,800,000.00
27	Biyinzika Poultry International Limited	983,472,457.50	656,024,475.00
28	AMATHEON AGRI UGANDA LIMITED	611,180.00	546,587.50
29	AGRI EXIM LIMITED	318,096,438.08	175,752,500.00
30	GRAIN PULSE LIMITED	76,699,995.00	142,212,650.00
31	NGETTA TROPICAL HOLDINGS LIMITED	10,434,550.00	2,806,000.00
		9,804,499,393	8,262,118,858

Source: Uganda Revenue Authority

6.2.6 Impact of the re-classification of concentrates on the Ugandan economy

Concentrates are ingredients used in the manufacture of animal feeds to improve the productivity of livestock. The Committee notes that currently, the VAT Act exempts only the supply of premixes and animal feeds from VAT.

URA informed the Committee that VAT is multi stage tax levied and collected on the gross margin at each point in the process of manufacturing, distributing, and selling an item thereby raising government revenue. This means that a supply of livestock, unprocessed foodstuffs and unprocessed agricultural products is exempt from VAT.

Most farmers in Uganda engage in the supply of livestock (e.g poultry) and unprocessed agricultural products such as eggs. This implies that these farmers are not required to register for VAT; therefore, VAT incurred on purchases of concentrates and other taxable inputs is not claimable and will form part of the cost of production in addition to other overhead costs. Therefore, as a result of imposing VAT on concentrates, whereas government will collect more revenue along the supply chain, it is expected that the VAT burden will cause a cascading effect in the animal feed manufacturing, distribution and consumption chain (farmer level) ultimately increasing the price of animal feeds and agricultural products.

7.0 RECOMMENDATIONS

- 1) The Committee recommends that URA prioritises the undertaking of taxation impact assessment studies before imposition of taxes or reclassification of supplies to ensure that the principles of taxation which provide for the guidelines of a good taxation system are followed to maximise the tax base without necessarily crippling the economy or over burdening the tax payer.
- 2) The Committee recommends that Government establishes policies that limit discretion in the selection of Companies receiving tax incentives and that it applies specific rules/criteria for any Company to become eligible for tax incentives in the Ugandan economy.
- 3) The Committee recommends that URA extends the implementation of the EFRIS system by not less than one year during which period, URA should invest more in education, publicity, sensitization and offering technical support to all traders to effectively implement and utilize the system.
- 4) The Committee recommends that URA undertakes a classification of businesses according to their turnover and categorizes them for the purposes of creating a threshold for the implementation of the EFRIS system. This is because some businesses have meagre turnovers that can easily be crippled by the costs related to the implementation of the system.
- 5) The Committee recommends that Development Institutions such as ~~Uganda Development Corporation~~, Uganda Development Bank and Microfinance Support Center must put in place flexible arrangements for credit access that include smaller businesses and informal sector that would otherwise not benefit under the existing criteria. The use of movable property as security as regulated by the Security Interest in Movable Property Act, 2019 for example, should be fully operationalized to foster access to credit by MSMEs.
- 6) The Committee recommends that URA with immediate effect puts a stop to the irregular reclassification of concentrates and unconditionally

releases all the animal and poultry feed concentrates that have allegedly been misclassified by importers as premixes. The act of URA is untenable under the current legal regime and may result into litigation to the liability of Government.

- 7) The Committee recommends that URA immediately puts stoppage on the requirement that traders/ importers execute promissory notes for VAT and import duty payable on imported concentrates since 2017. The Committee is cognizant of the legal mandate of URA to collect taxes. The Committee however refers to the case of Francis Byamugisha Vs Parliamentary Commission, URA & A.G in which the applicant sued the Government entities for failure to collect taxes due on the emoluments of Members of Parliament. Justice Madrama found that the said Defendants were bound to follow the advice of the Attorney General and therefore the Parliamentary Commission and Uganda Revenue Authority did not breach their statutory duties to collect taxes upon being properly advised by the Attorney General. In other words taxes from 1997 to the time of the decision were not collectable under the judgment of the court, it was so held. In view of the case therefore, the Committee recommends that URA and the Attorney General applies the same principle in this matter and ensures that traders are saved from an unfair and irregular taxation regime.
- 8) The Committee recommends that the Government should fast-track the Animal Feeds Bill to regulate the local manufactures of animal feeds in Uganda and establish standards for quality production.
- 9) The Committee recommends that the Ministry of Agriculture and all concerned stakeholders carry out thorough consultations during the pre-legislative scrutiny of the Animal Feeds Bill to ensure that there is reconciliation and that an implementable law which addresses the pertinent issues affecting the sector is enacted by Parliament.

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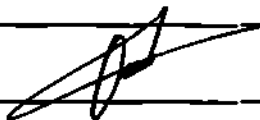

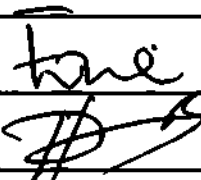

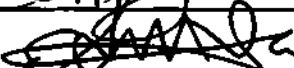

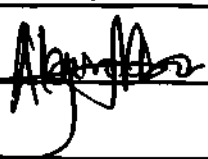


- 10) The committee recommends that the VAT Act be amended to eliminate any doubt that concentrates are premixes exempted under the second schedule of the Value Added Tax and therefore reconciling the taxation regime of Uganda with the other countries in the East African Community. This shall be achieved through adopting the wording of the VAT Act of Kenya which exempts **"materials, wastes, residues and by-products, whether or not in the form of pellets and preparations of a kind used in animal feeding of tariff numbers 2309.90.10 and 2309.90.90 among many others"**



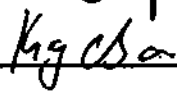
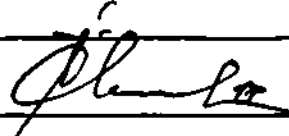
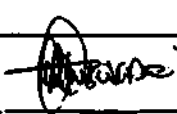


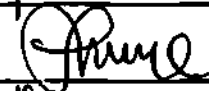

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- Top left: *Kyoba.*
- Top center: *Kyoba* (crossed out), *John*
- Center: *John*, *Tri*
- Bottom left: *Kyoba.*
- Bottom center: *32*
- Bottom right: *John*, *Michael*, *Philip*, *John*

REPORT OF THE COMMITTEE ON TOURISM TRADE AND INDUSTRY REGARDING THE KACITA PETITION

No	NAME	SIGNATURE
1.	Hon. Mwine Mpaka Rwamirama	
2.	Hon. Lamwaka Catherine	
3.	Hon. Mbwaterkamwa Gaffa	
4.	Hon. Mugole Mauku David <i>Stephen</i>	
5.	Hon. Michael Timuzigu Kamugisha	
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