



Special Products Under WTO Negotiations: The Case for Kenya

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Abstract

There is need to identify agricultural products that may be designated as Special Products (SPs) for the purpose of receiving Special and Differential Treatment (SDT) under World Trade Organization (WTO) provisions. Special Products for Kenya have been selected using indicators contained in the draft possible modalities on agriculture, circulated by the Chairman of the WTO Committee on Agriculture in June 2006. The indicators relate to contribution of a particular product to a country's food and livelihood security, and rural development. Overall, 11 products were found to qualify for designation as Special Products. These are: maize, sugar, wheat, milk and milk products, rice, meat and meat products, oil crops, cotton, horticultural products (vegetables and fruits), irish potatoes and millet. About 145 tariff lines accounting for about 20 percent of total agricultural tariff lines relating to these products were found to qualify for designation as Special Products. This is within the limits so far proposed under WTO negotiations. The paper recommends that Kenya be allowed to self-designate the identified Special Products and that developing countries be allowed some flexibility to substitute the selected Special Products whenever national priorities change. It further recommends that Kenya negotiates for exemption of all identified Special Products from tariff reduction. In the event that exemption of all identified Special Products is found not to be acceptable to other WTO members, then the country may seek exemption for only a few products, particularly those that have relatively low tariffs and are very important for food security, for protecting the livelihoods of the poor, and for rural development needs.

Abbreviations and acronyms

AoA	Agreement on Agriculture
ACP	African Caribbean Pacific countries
AMS	Aggregate Measure of Support
ASAL	Arid and Semi-Arid Lands
CAFTA	Central America Free Trade Agreement
CAP	Common Agricultural Policy
CBS	Central Bureau of Statistics
CIF	Cost Insurance and Freight
CoA, WTO	Committee on Agriculture, World Trade Organization
COMESA	Common Market for Eastern and Southern Africa
EC	European Commission
ERSWEC	Economic Recovery Strategy for Wealth and Employment Creation
EU	European Union
FAO	Food Agricultural Organization
FAOSTAT	FAO statistical database
FTA	Free Trade Area
GATT	General Agreement on Tariffs and Trade
GDP	Gross Domestic Product
GNP	Gross National Product
GoK	Government of Kenya
HS	Harmonized System
ICTSD	International Center for Trade and Sustainable Development
IFAD	International Fund for Agricultural Development
IFPRI	International Food Policy Research Institute
KDB	Kenya Dairy Board
KEPLOTRADE	Kenya-European Union Post Lome Trade Programme
KIPPRA	Kenya Institute for Public Policy Research and Analysis
KRA	Kenya Revenue Authority
KRDS	Kenya Rural Development Strategy
LM	Lower Midland
MFN	Most Favoured Nation
MoA	Ministry of Agriculture
MPND	Ministry of Planning and National Development
NAFTA	North American Free Trade Agreement
NFICs	Net Food-Importing Countries
NIB	National Irrigation Board
NLDP	National Livestock Development Policy
PRSP	Poverty Reduction Strategy Paper
SDT	Special and Differential Treatment
SPs	Special Products
SRA	Strategy for Revitalizing Agriculture
SSM	Special Safeguard Mechanisms
TRQs	Tariff Rate Quotas

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1. Introduction

Agriculture is the main means of livelihood in many developing countries, especially those without substantial natural resources. It is the main employer in low-income countries, accounting for 65 percent of the labourforce as compared to 28 percent in middle-income countries and about 8 percent in high-income countries (FAO, 2002). The sector is also a significant contributor to GDP in developing countries, accounting for an average of 36 percent of GDP for low-income countries as compared to 8 percent for upper middle-income countries, and only 2 percent for high-income countries (FAO, 2002). For Kenya, the sector directly contributes about 25 percent to GDP, accounts for 80 percent of employment, 60 percent of export earnings and about 45 percent of government revenue (Republic of Kenya, 2006; SRA, 2004). Agriculture is, therefore, central to Kenya's development agenda.

Trade in agricultural products has been a sensitive issue in international relations. Due to its sensitivity, agricultural trade issues were, to a high degree, neglected during six rounds of international trade negotiations between 1948 and 1986. Although the Uruguay Round (1987-1993) allowed progress in terms of the general rules for agricultural trade, it did not manage to break the trend in disparities in trade rules, particularly support measures (Pomareda, 2005). Evidently, developed countries have continued providing support to agriculture under the umbrella of international agreements, especially allowances provided in the Green Box. With such support, developed countries are able to export subsidized products to developing countries, thereby threatening the livelihoods of millions of poor farmers, and hence the need for protection of these livelihoods against adverse effects of full trade liberalization.

The concept of Special and Differential Treatment (SDT) of developing countries is recognized in Article 20 of the Agreement on Agriculture, which contained the original mandate for the post-Uruguay Round

negotiations on agriculture. During the Doha Round, developing countries have been seeking concrete application of the concept in all the three pillars of negotiations on agriculture, viz: market access, domestic support and export competition (Hoda, 2005). Within market access, growing concern regards the treatment of sensitive products and special products. Special interest has emerged on the treatment of these products after the WTO Council meeting in July 2004. The framework (so called July Framework) adopted during the meeting recognizes that one of the ways in which developing countries would benefit from SDT in the market access pillar would be by designating an appropriate number of agricultural products as Special Products based on food security, livelihood security and rural development needs. It is envisioned that such agricultural products would be exempted from applicable tariff reduction regimes or would be subjected to less demanding tariff reduction mechanisms. The July Framework envisages that the criteria of selection and treatment of Special Products would be specified further during the negotiations.

As the negotiations proceed, the following issues are of concern to Kenya:

- (i) What criteria are to be used in selection of the Special Products?
- (ii) Should developing countries such as Kenya be allowed to self-designate the Special Products?
- (iii) What should be the level of the Harmonized System – HS – (4 digit or 6 digit) at which the products should be identified?
- (iv) Should Special Products be exempted from tariff reduction?

Most of these questions still remain unanswered. To date, Kenya and WTO member countries have neither agreed on a common criteria that can be used for selection of Special Products nor on the percentage of tariff lines that could be designated as Special Products. This study, therefore,

aims at informing the position that Kenya should consider adopting during the on-going WTO negotiations.

1.1 Objectives of the study

The main objective of this study is to develop a criteria for selection of Special Products and identify agricultural products that should be designated as Special Products for Kenya for the purpose of being exempted from tariff reduction commitments or being subjected to less demanding tariff reduction mechanisms. The study is intended to guide trade negotiators and policy makers in formulating policy and trade negotiation positions in relation to identification of Special Products. Specific objectives of the paper are to:

- (i) Develop a criteria for selection of Special Products for Kenya;
- (ii) Identify agricultural products to be designated as Special Products; and
- (iii) Examine the Special and Differential Treatment that the proposed Special Products should be given.

1.2 Organization of the study

The rest of the study is organized as follows: Section 2 is an overview of Kenya's agricultural sector. Section 3 presents the conceptual framework while section 4 suggests the criteria for selection of Special Products and the agricultural products that may be designated as Special Products in Kenya. It also highlights the possible Special and Differential Treatment that these products can be given. The study ends with conclusions and recommendations in section 5.

2. Overview of Kenya's Agricultural Sector

Agriculture remains an important tool and vehicle for the realization of Kenya's objective of creating employment and reducing poverty. The sector directly contributes 25 percent to GDP and 60 percent of export earnings (Republic of Kenya, 2006). Moreover, through links with manufacturing, distribution and service-related sectors, agriculture indirectly contributes a further 27 percent to the country's GDP (SRA, 2004). Agriculture also serves as a source of livelihood for about 80 percent of the Kenyan population who live in rural areas.

Agricultural growth is crucial to Kenya's overall economic and social development. During the first two decades after independence, Kenya's economy grew at an average rate of 6 percent per annum and this was attributed largely to high growth (averaging over 5 percent per annum) registered in agriculture. However, the economy hardly grew between 1990 and 2002 following a sharp and an abrupt decline in agricultural growth. This impoverished many Kenyans so much that by 2000, about 56 percent of the population was living below the poverty line, with over 80 percent of the population living in rural areas. Besides, estimates indicate that about 51 percent of the population lacks access to adequate food, and even the little they get is of poor nutritional value and quality (SRA, 2004).

2.1 Land resources

The most important natural resource in Kenya is land, which is dominantly used for agriculture. The land is classified broadly into three categories: high potential, medium potential, and low potential based mainly on rainfall received (Table 1). The high potential areas receive an annual average rainfall of 857mm or more and cover about 13 percent of the total land area. The medium potential areas receive an annual average rainfall of between 735 to 857mm and cover about 7 percent of the total land area.

Low potential areas receive an annual average rainfall of 612mm or less and cover about 80 percent of the total land area. The high and medium potential areas, which comprise 20 percent of the total land, are the areas suitable for arable rain-fed agriculture. These areas are dominated by crop and dairy farming, each occupying 31 percent and 30 percent, respectively.

In total, 46.6 percent of Kenya's households own less than 0.8ha of land (Ministry of Planning and National Development, 1998). Rift Valley and Western provinces, both of which have some of the largest high and medium potential land, have 43 percent and 31.8 percent of the households owning less than 0.8ha of land as compared to 65.5 percent of households in Central Province (the only other region with large, medium and high potential land). Overall, smallholder farmers who own less than 1.2ha of land dominate agricultural production in Kenya.

Table 1: Agricultural land in Kenya ('000 ha) and population ('000 persons)¹

Region	High potential	Medium potential	Low potential	Other land	Total area	Population 1999 census
Central	909	15	41	353	1,318	3,882
Coast	373	796	5,663	1,472	8,304	2,623
Eastern	503	2,189	11,453	1,431	15,576	4,841
Nairobi	16	-	38	14	68	2,290
North Eastern	-	-	12,690	-	12,690	1,055
Nyanza	1,218	34	-	-	1,252	4,598
Rift Valley	3,025	123	12,230	1,515	16,883	7,386
Western	741	-	-	82	823	3,532
Total	6,785	3,157	42,105	4,867	56,914	30,207

Source: Statistical Abstract, 2004

¹ Projections based on 1999 census.

2.2 Production structure

The major agricultural commodities produced in Kenya are classified into food crops, industrial and export crops, horticulture, and livestock and livestock products. The major tradable food crops in Kenya are maize, wheat and rice while the non-tradables comprise of sorghum and millets, pulses (beans and peas), and roots and tubers (cassava, sweet potatoes, irish potatoes and yams). The most important industrial crops in Kenya are sugarcane, cotton, sisal and pyrethrum. Others are tobacco, cashew nuts, wattle trees and a wide range of oil crops. These crops are produced for use in agro-processing by industries, although some are exported as raw materials.

2.2.1 Food crops

Among the tradable food crops, maize is the leading in terms of production, with a total production of 3.25 million tonnes in 2006. The crop is mainly grown in Rift Valley, Central, Western and Nyanza Provinces. Maize is followed by wheat, with a total production of 358,061 tonnes in 2006 (Republic of Kenya, 2007).

For non-tradable food crops, irish potatoes lead with a total production of 784,500 tonnes in 2006 followed by sweet potatoes (724,646 tonnes), cassava (656,633 tonnes) beans (531,800 tonnes) and sorghum (131,188 tonnes). Potatoes are predominantly grown in Central Province, while beans are grown mainly in Rift Valley, Eastern, Western, Central and Nyanza Province. Sorghum is predominantly grown in Eastern and Nyanza provinces.

2.2.2 Livestock products

Beef is the leading livestock product with a production of about 295,000 tonnes valued at over Ksh 43 billion in 2003. The bulk of Kenya's meat

comes from the extensive ASAL regions, particularly North Eastern, Eastern, Rift Valley and Nyanza provinces. Milk is the second most important livestock product. In 2003, milk production stood at about 2.85 billion litres valued at about Ksh 42 billion.

2.2.3 *Export crops*

Tea, horticultural crops and coffee are major sources of foreign exchange, employment and income to many large and small-scale farmers in Kenya. The three commodities jointly contribute about 34 percent of agricultural Gross Domestic Product, employ over 40 percent of the agriculture labourforce and jointly contribute to over 60 percent of foreign exchange earnings in the country. Table 2 provides export statistics for Kenya's five top agricultural export commodities (fisheries included).

Agricultural commodities dominate Kenyan exports, while manufactured goods dominate the imports. Agriculture's share of export earnings has averaged 56 percent for the past five years (1999-2003). Tea, horticultural products, coffee and pyrethrum dominate agricultural exports. Coffee dominated agricultural exports until 1988 when it was overtaken by tea. In 1998, horticultural crops overtook coffee to become the second after tea as the most important agricultural export for Kenya.

Table 2: Top five agricultural exports: 1999-2003 (Value in Ksh billions)

Commodity	1999	2000	2001	2002	2003
Tea	32.8	35.1	34.5	34.4	33.0
Horticulture	17.6	21.2	19.8	28.3	28.8
Coffee, not roasted	12.0	11.7	7.5	6.5	6.3
Beverages and tobacco	1.8	2.3	3.1	3.5	3.3
Pyrethrum	0.7	0.7	1.0	0.8	1.0
Fish and preparations	2.3	3.0	3.9	4.2	4.0

Source: Statistical abstracts (Various)

The major constraints facing agricultural exports include: depressed world market prices; increasingly stringent sanitary and phytosanitary standards; and tariff escalation (which discourages value addition of export products) in developed countries. Other factors constraining performance of export products at the local level are: poor road infrastructure; high cost of farm inputs; high incidence of pests and diseases; poor quality planting materials; inaccessibility to affordable credit; and high power and water tariffs, among others.

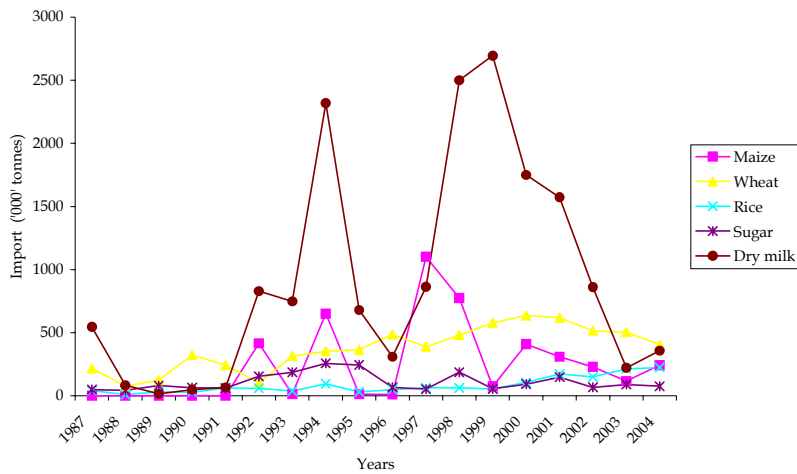
2.3 Agricultural imports

Agricultural imports are dominated by food items, particularly cereals and dairy products (Figure 1). The levels of food imports for most commodities have been high since 1992 because of market liberalization and decline in domestic production. For example, whereas the country did not import any maize between 1987 and 1991, maize imports increased to 1.1 million tonnes in 1997 and to 409,000 tonnes in 2000. Over the 2001-2004 period, annual maize imports averaged 224,000 tonnes.

Some comparative statistics for food imports for the periods 1990-1992 and 2001-2004 are shown in Figure 2. From the figure, it is evident that imports of major food products increased substantially after liberalization of the food sub-sector in 1993. Rice imports recorded the largest increase from 49,000 tonnes to 189,000 tonnes, an increase of 283 percent. Milk, wheat and maize imports over the same period increased significantly by 139, 130 and 62 percent, respectively. Sugar imports recorded the smallest increase of 2 percent.

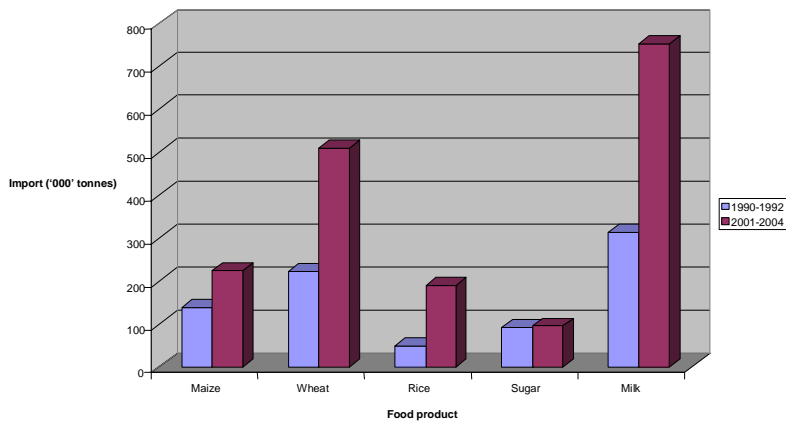
It is important to note that milk products and wheat are largely sourced from developed nations, especially European Union (EU), which heavily subsidizes production and export of these commodities, thus posing a major threat to domestic production of food commodities (KIPPRA,

Figure 1: Import of major food commodities



Source: Statistical abstracts (Various)

Figure 2: Import of major food products (1990/92 and 2001/04)



Source: Author's computation from various statistical abstracts

2005). This is particularly so when the imports dampen domestic producers' prices, thereby reducing incentives to producers. However, the cheap imports may allow consumers to access food cheaply.

2.4 Agriculture and food security

About 80 percent of the Kenyan population live in rural areas and depend on agriculture for their livelihoods. Most of the people are concentrated in the high and medium agricultural potential areas of Central and Western Kenya. The main sources of food security for the rural people are own-food production and purchases using farm and off-farm income. On average, 68 percent of the food consumed by poor rural households is purchased while 32 percent is derived from own-farm production (Table 3). On the other hand, 67 percent of the food consumed by non-poor rural households is purchased while about 33 percent is own-production.

Table 3: Share of own-produced and purchased food for rural households (1997)

Province	Non-poor		Poor	
	<i>Share of food produced on the farm (%)</i>	<i>Share of purchased food (%)</i>	<i>Share of food produced on the farm (%)</i>	<i>Share of purchased food (%)</i>
Central	26.1	73.9	21.7	78.3
Coast	17.2	82.8	12.6	87.4
Eastern	34.0	66.0	28.5	71.5
Nyanza	37.7	62.3	38.5	61.5
Rift Valley	38.0	62.0	39.0	61.0
Western	36.3	63.7	30.1	69.9
Average rural	32.8	67.2	31.6	68.4
Average urban	2.0	98.0	2.5	97.5

Source: Nyangito et al., 2004

The main sources of farm income are the crops and livestock products that are sold by households. Overall, maize and wheat are the leading sources of crop income. About 50 percent of the rural farming households are involved in off-farm income generating activities and about 36 percent have at least one salary earner living away from the farm (KRDS, 2002). Furthermore, a third of the households receive remittances. Thus, most rural people depend on non-farm activities for a significant portion of their income. On average, 30 percent of the rural income for households is derived from farm income while 70 percent is derived from off-farm income, which includes remittances. However, these ratios vary from region to region with farm income forming a low proportion (18%) in Eastern Province and a high proportion (60%) in Rift Valley Province (Nyangito *et al.*, 2004).

Notably, rural regions where farms are the least sources of income (North Eastern, Eastern, Coast and Nyanza Provinces) have the highest levels of poverty. This demonstrates the very important role that farm activities play particularly in providing food and alleviating poverty in Kenya. Total liberalization of the agricultural sector, especially the food sub-sector would, therefore, most likely worsen food security situation in Kenya as evidenced by analysis provided in Table 4.

From the table, it is clear that the aggregate measures of Kenya's food security, i.e. per capita food production, self-sufficiency ratio, ratio of food imports to agricultural exports and ratio of imports to total exports have generally worsened since 1993 (post-liberalization period). During the pre-liberalization period (before 1993/94), Kenya generally had a higher food self-sufficiency ratio (less than or equal to 0.96) in food production than the post-liberalization period when the ratio has generally been less than 0.95. Cereal self-sufficiency has deteriorated from 0.95 in 1990 to 0.71 in 2002. In the pre-liberalization period, the government put a lot of emphasis on the development of the agricultural sector through substantial domestic support measures for production

Table 4: Indicators of national food security (1990-2002)

Year	Per capita food production Kg/yr	Food self-sufficiency ratio ²	Cereal self-sufficiency	Ratio of food imports to agricultural exports	Ratio of food imports to total exports
1990	679.88	1.00	0.95	0.15	0.12
1991	654.25	0.99	0.94	0.09	0.06
1992	626.42	0.98	0.91	0.21	0.16
1993	604.90	0.96	0.81	0.11	0.08
1994	615.45	1.00	1.00	0.29	0.19
1995	624.17	0.97	0.88	0.09	0.06
1996	602.93	0.94	0.71	0.14	0.09
1997	582.15	0.93	0.71	0.28	0.19
1998	612.41	0.95	0.76	0.22	0.15
1999	616.92	0.93	0.69	0.15	0.11
2000	561.69	0.91	0.65	0.18	0.15
2001	579.72	0.93	0.78	0.41	0.22
2002	569.88	0.91	0.71	0.20	0.11

Source: Author's computation from FAOSTAT database and statistical abstracts

and some levels of protection through quantitative and high tariff level restrictions on imports. With liberalization, the support was stopped and the food security situation has worsened since then. By 2003, Kenya relied more on imports to meet the food needs of the country and used about 25 percent of the value of agricultural exports and 14 percent of the total value of exports to import food. The high food insecurity and poverty in the country may be attributed to the poor performance of agriculture because the sector dominates the Kenyan economy.

² The food self-sufficiency ratio indicates the extent to which a country's supply of commodities and/or total food is derived from national production or originates from abroad. A ratio of '1.0' suggests that there were hardly any food imports during that year.

3. Conceptual Framework

In this section, more emphasis is given to concepts such as Special Products, food security, livelihood security, rural development, subsidies provided by developed countries and current status of negotiations on Special Products.

3.1 Concept of Special Products

According to the current negotiations on World Trade Organization (WTO) Agreement on Agriculture (AoA) framework, Special Products (SPs) are agricultural products that are supposed to be absolved from a variety of commitments that are made in trade negotiations with a view to maintaining a certain level of tariff protection (at the HS-6 digit level).

The idea of Special Products has its origins in the quest of developing countries for mechanisms of flexibility in applying trade policy instruments to agriculture (Hoda, 2005). It is a component of the concept of Special and Differential Treatment (SDT), which is recognized in the WTO Agreement. It was reiterated in the Ministerial Declaration (WTO, 2001) that launched the Doha Round on 14th November 2001 that:

“We agree that Special and Differential Treatment for developing countries shall be an integral part of all elements of the negotiations and shall be embodied in the schedules of concessions and commitments and as appropriate in the rules and disciplines to be negotiated, so as to be operationally effective and to enable developing countries to effectively take account of their development needs, including food security and rural development. We take note of the non-trade concerns reflected in the negotiating proposals submitted by members and confirm that non-trade concerns will be taken into account in the negotiations as provided for in the Agreement on Agriculture”.

Further, the decision adopted by the WTO General Council on 1st August 2004 for the Doha Work Programme notes that special attention is to 'be given to the specific trade and development-related needs and concerns of developing countries'. Amongst others, it specifically refers to 'food security, rural development, livelihoods, preferences, commodities and net food imports...'. The July Framework recognizes that one of the ways in which the developing countries would benefit from SDT in the market access pillar would be by designating an appropriate number of agricultural products as Special Products based on food security, livelihood security and rural development needs.

3.1.1 Food security

Traditionally, food security has been equated in many countries with self-sufficiency in the production of basic foodstuffs. Achieving independence from international food markets has been an explicit goal of many governments. In pursuit of this objective, the governments introduced a range of interventionist policies – including heavy and ultimately unsustainable subsidization of agricultural production and marketing – which distorted cropping patterns, repressed domestic trade and altered consumer preferences (Stevens, 2004).

Food security exists when all people, at all times, have physical and economic access to sufficient, safe and nutritious food to meet their dietary needs and food preferences for an active and healthy life (FAO, 1996).

Thus, to achieve food security, the population must be assured not only of physical availability of food but also of economic access to it. Food supplies should, therefore, in addition to being safe for consumption, have stable and reasonable prices. For low-income countries such as Kenya, this can only be assured through domestic production. Such countries may resist deepening their dependence on global markets for

staple food needs due to anxiety about supply or demand volatility in those markets.

The above notwithstanding, a practical difficulty for ensuring that changes to multilateral trade policy take into account food security implications is that trade negotiators and food security planners talk a different language and do not have access to appropriate data (Stevens *et al.*, 2003). Whereas food security analysts look into the production, trade, labour and transfer routes to food security, the concept of food security in the Agreement on Agriculture is much narrower, relating only to availability of imported food for Net Food-Importing Countries (NFICs). The concept of food security has since 1980s shifted from national to household level and from production of food towards access to food.

The starting point for selection of Special Products from the angle of food security has to be the dietary preferences of the population (Hoda, 2005). This requires that all the constituents of the food basket of the population be identified. For most developing countries, Kenya included, food products considered as main constituents of the diet of their population include cereals, vegetables, meat and milk products, oil crops, pulses and tubers. After selecting the principle food products, the next step should be to consider the level of self-sufficiency in the product (Hoda, 2005). The self-sufficiency ratios for three product groups in 23 selected countries with respect to some important foodstuffs are provided in Annex 1. It is suggested that the best way of factoring in the food security concerns would be to develop a benchmark of self-sufficiency in critical foodstuffs below which developing countries should be able to designate particular tariff lines as Special Products.

3.1.2 *Livelihood security*

Agriculture remains a critically important source of livelihood for a large percentage of the population in developing countries. Indeed, agriculture continues to be the main employer in the low-income countries, providing for 70 percent of the employment. In medium-income countries, it provides for 30 percent of the employment. Due to this, some countries have given primacy to livelihood security as the main reason for moderating the requirement for them to reduce tariffs.

In market economies, the expectation is that when productive resources become redundant in one area of the economy, such resources would be redeployed to another area. Developing countries, however, contend that alternative avenues of employment for the rural poor are just not available in these countries (Hoda, 2005). There is, however, growing literature on 'sustainable livelihoods' and livelihood diversification, which recognizes that poor households choose to diversify their income sources as a way of increasing total income or consumption, and of spreading risk (Ellis, 2000). In recent years, there is an increased recognition of the importance of livelihood insecurity or uncertainty as central to the experience of living in poverty (Narayan *et al.*, 2000).

It has been argued that trade liberalization may at times be regressive, because the main beneficiaries of a 'free trade' policy environment are more likely to be large-scale commercial producers and traders than smallholders who face restricted access to inputs and weak bargaining power in the market place. Stevens (2004) observed that there have been incidences of 'agricultural involution' where trade liberalization has included reducing the role of agricultural parastatals in input delivery, output purchase and marketing, and private traders have either neglected or exploited small farmers exposed by this institutional vacuum.

The easiest way of identifying products that are important from the perspective of livelihood security is to use product-wise figures of employment where they are available. However, often times, such data is not available and the share of the value of the product in question in the total value of the agricultural output is used to derive the employment in a particular product and the percentage of the total workforce engaged in the production of the product (Hoda, 2005). For crops, the share of the product in the gross cropped area is used. The complication that may arise is that even if the dependence on a particular product for agricultural employment is low at the country level, it may be high in a particular geographical area. It is, therefore, difficult to fix a particular level of contribution to livelihood security, valid for all countries.

3.1.3 *Rural development*

Rural development has also been put forward as a valid argument to define Special Products. While agriculture contributes a small share of GDP in developed countries, the position is quite different for developing countries in which agriculture constitutes a big share of the GDP. Rural development in developing countries can only be sustained through a vibrant and growing agricultural activity since agriculture is the dominant economic activity in rural areas.

Where production of a commodity declines or is completely decimated in a region, probably due to trade liberalization, the related input supply and services to produce that commodity will no longer be demanded. In addition, value addition activities through rural agro-industries would be affected. All these would have adverse impacts on rural employment and the local economies.

In the view of developing countries, the issues of food security, livelihood security and rural development are inextricably inter-linked. In its submission to WTO negotiations, Indonesia argues that:

- The agricultural sector lies at the centre of Indonesia's economy and has made a number of major and interrelated contributions to the process of socio-economic development in the country. The sector contributes greatly to GDP and provides productive employment opportunities and income for the bulk of the population, especially the rural population.
- During economic crisis, a massive increase in unemployment is prevented largely by the ability of the agricultural sector to absorb workers laid off from non-agricultural sectors.
- Since employment in agriculture has fallen much more slowly than in the non-agricultural sector, the agricultural sector merits even more intense attention to increase labour productivity and income for further poverty alleviation and food security.
- The sector plays a crucial role in eradicating poverty through a structure and pattern of production that allows small farmers and landless agricultural workers to share in the benefits of agricultural growth.

The share of agriculture in the GDP is the best measure of the importance of agriculture to a developing economy (Hoda, 2005). Annex 2 gives the FAO estimates of the average share of agriculture in the GDP of 23 selected developing countries. From the annex, it is clear that dependence on agriculture is as high as 40 percent for some least developed countries. Developing countries in which agriculture constitutes a higher share of GDP should be given greater latitude in listing tariff lines that can be designated as Special Products.

3.2 Subsidies provided by developed countries

Most developed countries, particularly EU and US, highly subsidize their farmers through export subsidies and domestic support. The subsidies create vast surplus that is dumped in developing countries, thus driving down world commodity and producer prices and making it more difficult for unsubsidized small-scale farmers to compete. This has had adverse impacts on food security, livelihood security and rural development in developing countries. A case in point is the export of subsidized rice by US to Honduras. An Oxfam report (Oxfam, 2005) showed that the export of subsidized rice from the US had negative consequences to Honduran farmers.

‘Between 2000 and 2003, it cost on average \$415 to grow and mill one tonne of white rice in the US. But US rice was dumped on export markets for only \$274 per tonne, 34 percent below the cost of production. Subsidies made up a large part of the difference. In Honduras, tariff reductions for rice in 1991 led to a flood of US rice imports and a resulting plunge in the price of rice payable to farmers, causing Honduran rice production to reduce drastically. In a decade, the number of Honduran rice producers fell from 25,000 to less than 2,000. Employment opportunities created by rice dropped from 150,000 to less than 11,200 jobs while production reduced by 86 percent’.

To keep their level of subsidizing high, the US is pleading for a broadening of the Blue Box.³ In a broader Blue Box, all subsidies under the Farm Bill can be maintained.

³ Blue Box is a popular expression used to represent the set of provisions in the Agreement on Agriculture that exempt from reduction commitments those programme payments that limit production, such as diversion payments on set-aside land.

3.3 Current status of negotiations on Special Products

In June 2006, the Chairman of the WTO Committee on Agriculture circulated a document (CoA, 2006) containing the draft possible modalities on agriculture. The document set out draft modalities for preparing the schedules for the agricultural negotiations. Even though the draft modalities have not yet been formally agreed upon by members, they do reflect the state of intensive negotiations that have been going on and the direction that the negotiations on Special Products are likely to take. The draft modalities (CoA, 2006) have the following provisions on selection of Special Products:

- Each developing country member shall have the right to self-designate [at least 20% of]⁴ [up to 5] tariff lines in the member's schedule as "Special Products"
- Designation shall be guided by the indicators listed in Annex D (presented in section 4.1) which are based on the criteria of food security, livelihood security and/or rural development needs of individual developing country members. [To be a candidate for designation as a "Special Product", the product must be produced domestically or be a close substitute of products produced domestically. [] percent of domestic consumption of the product must be met through domestic production; or the product must represent more than [] percent of agricultural GDP; or the product must contribute at least [] percent of the total nutritional value (dietary and calorific requirement) of the population]
- A tariff line shall not be designated as a "Special Product" if: [developing country members export more than [] percent of world exports of that product; or more than [] of imports by the member concerned are imported from other developing country

⁴ Bracketed text implies that there is no agreement as yet.

members]; [the developing country member concerned is a net exporter; or if the developing country member concerned exports the product on a most-favoured-nation basis]; [the product is eligible for the Special Safeguard Mechanism]

- Any product accordingly designated and notified as SP, [whether in its natural unprocessed form or in its processed forms, shall be presumed to meet at least one of the indicators given in Annex D, either at the national or regional level, in the developing country member concerned. A product in any of its processed forms shall be deemed to be eligible for designation as SP if the product in its natural unprocessed form is designated as SP. The right to self-designate any product as SP shall not be questioned at any stage of the negotiating processes, including the processes for verification of the schedules of members.] [To show compliance with the criteria, each developing country designating a product as “SP” shall, [upon request] demonstrate, using appropriate indicators, how the product concerned meets the criteria of food security, livelihood security and rural development.]

4. Designation and Treatment of Special Products

This section highlights the various indicators used in selection of Special Products according to the on-going WTO negotiation on agriculture as well as discussing products that are considered to be the most likely candidates for designation as Special Products. The section also discusses treatment of Special Products.

4.1 Indicators for designation of Special Products

The on-going WTO negotiations on agriculture have developed a list of indicators that are to be used in selection of Special Products. Although the list is not yet fully agreed upon, it does offer some important guidelines on how to go about selecting Special Products. The indicators are provided under Annex D of the draft possible modalities on agriculture and provide that a product should be designated as a Special Product if:

- (i) The product has been identified as a staple food or as part of the basic food basket of the developing country member concerned through laws and regulations, including administrative guidelines.
- (ii) (a) A significant proportion of the domestic consumption of the product in its natural unprocessed or processed form is met through domestic production in the developing country member concerned; or

(b) Total domestic production of each food class (in terms of carbohydrates, fats and proteins or any other food class) accounts for a significant proportion of the total normative requirement of that food class in accordance with the dietary preferences in the developing country member concerned; or

- (c) The product contributes to a significant proportion of the total calorific intake per capita per day.
- (iii)
 - (a) A significant proportion of the total food expenditure, or of the total income, at the household level in the developing country member concerned is spent on the product; or
 - (b) A significant proportion of the total agricultural income at the household level in the developing country member concerned is derived from the production of the product.
- (iv) Domestic consumption of the product in the developing country member is significant in relation to total world exports of that product.
- (v) A significant proportion of total world exports of the product is accounted for by the largest exporting country.
- (vi)
 - (a) A significant proportion of the total domestic production of the product is produced on farms or operational land holdings of 20 hectares or of average farm size of the developing country member concerned or less in size; or
 - (b) A significant proportion of the farms or operational land holdings producing the product are of 20 hectares or of average farm size of the developing country member concerned or less in size.
- (vii) A significant proportion of the producers engaged in the production of the product are low income, resource poor or are subsistence farmer or disadvantaged producers.
- (viii)
 - (a) A relatively high absolute number of people are dependent on the product; or
 - (b) A significant proportion of the total agricultural population or rural labourforce is employed in the production of the product.

- (ix) A significant proportion of the gross arable land is under cultivation of the product.
- (x) A significant proportion of the domestic production of the product, including a product produced from livestock is produced in drought-prone or hilly or mountainous regions.
- (xi) A significant proportion of the domestic production of the product is produced by vulnerable populations such as tribal communities, ethnic groups, women, aged people, or disadvantaged producers.
- (xii) The productivity per worker or per hectare of the product in the developing country member is relatively low as compared to either the average productivity in the world or the highest productivity level achieved in any country.
- (xiii) A relatively low proportion of the product is processed in the developing country member as compared to the world average.
- (xiv) The product contributes to improving the living standards of the rural population directly and through its linkages to non-farm rural economic activities, including handicrafts and cottage industries or any other form of rural value addition.
- (xv) A significant proportion of the total value of agricultural production or agricultural GDP or agricultural income is contributed to by the product.
- (xvi) A significant proportion of the customs tariff revenue is derived from the product in a developing country member.
- (xvii) (a) A significant proportion of the agricultural income or agricultural production is derived from the production of the livestock product(s), or

- (b) A significant proportion of the agricultural population or rural labour is employed in the production of the livestock product(s).
- (xviii) A product-specific Aggregate Measure of Support (AMS) has been notified by any other member and that notifying member has exported the product during any year of the implementation period of the Uruguay Round.

From these proposed indicators, it appears like most major crops and animal products in Kenya qualify for designation as Special Products.

4.2 Proposed Special Products

This section discusses the products that are considered to be the most likely candidates for designation as Special Products. Consideration is made to only the major agricultural products (either in terms of production or total consumption) because according to on-going WTO negotiations, member countries will only be allowed to designate a maximum of 20 percent of total agricultural tariff lines as Special Products.

4.2.1 Maize

Maize is the primary staple food and provides about 34 percent (714 calories out of total food calorie supply per capita of 2,090 calories) of Kenyans total food calorie uptake on daily basis. In 2002, maize production per capita stood at 74 kg/year. It is the most frequently produced and marketed crop, grown by 90 percent of households and sold by more than 30 percent of the households in areas where the crop is grown (IFAD, 2004). In total, the maize sub-sector is estimated to employ over 4 million persons. The sub-sector accounts for about 8.2 percent of total national employment (Wobst, 2004).

Overall, Kenya's maize production accounts for about 11.6 percent of agricultural GDP and 2.9 percent of national GDP. In 2003, total maize production amounted to 2.8 million tonnes valued at over Ksh 31 billion, even though recorded marketed production was estimated (by Central Bureau of Statistics) to be about Ksh 3.3 billion. Over the 1998-2004 period, annual maize production averaged about 2.4 million tonnes, against a domestic consumption of 34 million bags (3 million tonnes). Currently, Kenya's maize self-sufficiency ratio stands at about 80 percent. Between 1992 and 2003, maize production recorded an average annual production growth rate of 1 percent as opposed to an average annual consumption growth rate of 3 percent. National production is thus lagging behind consumption. This means that even in normal production years, the country must import the commodity. Over the 1999-2004 period, Kenya imported an average of 224,000 tonnes of maize annually.

Overall, maize plays a very special role in ensuring food security, livelihood security and contributing to rural development particularly in Rift Valley, Nyanza, Western, Eastern and Central provinces. The product qualifies for designation as a Special Product on the basis of the following indicators, among others:

- Maize is the leading staple food for Kenya
- Domestic production accounts for over 80 percent of domestic consumption of maize
- The product accounts for a high proportion (over 34%) of Kenyans daily caloric intake
- Small-scale farmers, with land holdings of less than 20 hectares, produce over 70 percent of the maize (SRA, 2004).

4.2.2 *Sugar*

Sugar is the most important cash crop for the Lower Midland agro-ecological zones of Western Kenya. The sugar industry provides income and employment to thousands of people in the western part of the country. The industry directly supports 200,000 small-scale farmers and provides livelihood to an estimated 6 million Kenyans (Republic of Kenya, 2006). Other cash crops in the region, mostly cotton and oilseeds, have relatively lower profitability than sugar and, therefore, are not as important as sugar with respect to the potential of supporting the social and economic development of the region. On a national basis, the industry provides employment opportunities to many people (directly in wage employment in production, manufacturing, distribution and services industries), earns the country foreign exchange and makes a major contribution to the government's revenue (about 28% of excise revenue).

In total, the sub-sector contributes about 2.8 percent to the agricultural GDP and about 0.7 percent to national GDP (Tegemeo, 2005). It accounts for about 1.3 percent of total national employment (Wobst, 2004). Sugar supplies about 203 calories per capita per day while the commodity's food production per capita was about 15.6 kg/year in 2002 (FAOSTAT, 2005).

Overall, sugar production has experienced fluctuations over the years. Kenya achieved significant production of sugar in 1980 and 1981 to meet its domestic demand, but now the country imports about a third of its domestic requirements. Consumption has been rising at a rate of 3 percent per annum compared to a production growth rate of only 1.7 percent (average for 1992-2004). The nation now consumes over 640,000 tonnes of sugar but produces about 490,000 tonnes. The government has, however, been attempting to address supply constraints and during the 2004 production year, output increased to 517,000 tonnes as

compared to 489,000 tonnes in 2003—an increase of 5.7 percent. If this growth rate is maintained, Kenya could be self-sufficient in sugar production by 2013. At the moment, Kenya’s sugar self-sufficiency ratio stands at about 80 percent.

Sugar qualifies for designation as a Special Product on the basis of the following indicators, among others:

- The commodity is part of the basic food basket of Kenyans
- Domestic production accounts for about 80 percent of domestic consumption of sugar
- Sugar industry provides livelihood to over 6 million Kenyans
- The commodity accounts for over 2.8 percent of the agricultural GDP
- The commodity is largely produced by smallholders, each with a holding of less than 3 hectares.

4.2.3 *Wheat*

Wheat is the second most important cereal food in Kenya, after maize. Both small-scale and large-scale farmers produce the crop. Small-scale farmers grow wheat in small areas of less than 20 hectares while large-scale farmers grow the crop on areas ranging from 20 hectares to over 1,000 hectares. Furthermore, large-scale farmers are more mechanized in wheat production compared to small-scale farmers.

In 2003, total annual wheat production was estimated to be about 383,000 tonnes worth Ksh 6.2 billion.⁵ Out of the total production worth Ksh 6.2 billion, Central Bureau of Statistics estimates that produce worth Ksh 1.1

⁵ Ministry of Agriculture 2003 annual report, unpublished. The figures differ from those provided by Central Bureau of Statistics and FAOSTAT.

billion was marketed (Statistical Abstracts, 2004). Overall, wheat provides 185 calories per capita per day (9% of total calorie supply). The sub-sector is estimated to account for about 4.3 percent of total national employment (Wobst, 2004). Wheat production contributes about 2.1 percent to agricultural GDP and 0.5 percent to national GDP.

Wheat imports increased tremendously from 162,000 tonnes in 1992 to about 488,000 tonnes in 2003. Some of Kenya's wheat imports are sourced from developed countries such as the EU, which heavily subsidizes production and exports of wheat products. For instance, in 2002, EU export subsidies on wheat amounted to US\$ 11.1 million. In that year, EU exported over 10 million tonnes of wheat.

Currently, Kenya's wheat consumption outstrips supply and the country is, therefore, a net importer of wheat. Over the 1992-2003 period, wheat production annual growth rate averaged 14 percent as opposed to a consumption growth rate of 9 percent. With such a high consumption rate (9% as opposed to 3% for maize), it is projected that wheat will overtake maize as the leading cereal staple food by 2025.⁶ At that time, Kenya's wheat consumption will be 5.1 million tonnes as opposed to maize, 4.9 million tonnes.

Wheat qualifies for designation as a Special Product on the basis of the following indicators, among others:

- It is the second most important staple food for Kenya after maize
- The commodity accounts for about 9 percent of total per capita calorie supply
- It contributes about 2.1 percent to agricultural GDP

⁶ Assuming the current consumption patterns are maintained. With increasing household incomes, the consumption growth rate for wheat will be much higher, implying that wheat may overtake maize much earlier than 2025.

- A significant proportion of tariff revenue is derived from wheat imports. In 2003, wheat imports generated over Ksh 2.1 billion as tariff revenue (KRA, 2003).

4.2.4 *Rice*

Rice is the third most important cereal crop after maize and wheat but its consumption is growing at a higher rate (12% per annum) due to urbanization and the changing eating habits of the Kenyan population. The crop is mainly grown in and around national irrigation schemes, with Mwea Irrigation Scheme in Central Province accounting for over 60 percent of the total rice produced in Kenya. The rice sub-sector is estimated to employ over 50,000 persons, directly and indirectly (NIB, 2001). Overall, the sub-sector accounts for about 0.6 percent of total national employment (Wobst, 2004). In 2005, Kenya's marketed rice produce was valued at over Ksh 1.8 billion (Republic of Kenya, 2006). Rice contributes about 0.4 percent to agricultural GDP and 0.1 percent to national GDP (Tegemeo, 2005). The commodity supplies about 52 calories per capita per day (FAOSTAT, 2005).

Currently, total rice production stands at about 50,000 tonnes but consumption is about 240,000 tonnes, implying that Kenya is a net importer of rice. Production has stagnated at the level of 50,000 tonnes between 1993-2003 but consumption has increased tremendously over the same period, thus increasing demand for imported rice. In 2003, Kenya imported about 192,000 tonnes of rice compared to about 53,000 tonnes imported in 1999. Over the 1992-2003 period, Kenya's rice consumption annual growth rate averaged 12 percent. With such a high growth rate (12% compared to 9% for wheat and 3% for maize), rice will overtake maize as the second most important cereal crop by 2030.

By 2050, rice will also overtake wheat to become the most important cereal crop in Kenya.⁷

Kenya's rice production has been under constant threat from cheap imports, some of which are sourced from countries that are heavily subsidizing production and export of the commodity. For instance, in 2002, the EU subsidized rice exports to the tune of US\$ 39 billion. In that year, EU rice exports exceeded 350,000 tonnes, some of which landed in Kenya. It is, therefore, important that rice be considered for designation as a Special Product, especially owing to its potential for cultivation in areas that are currently ravaged by poverty. The country has a big potential for increasing rice production especially in Nyanza and Coast regions, both of which have very high rates of poverty incidence. Rice qualifies for designation as a Special Product on the basis of the following indicators, among others:

- It is the third most important cereal staple food for Kenya after maize and wheat
- The commodity accounts for about 2.5 percent of total per capita calorie supply
- It contributes about 0.4 percent to agricultural GDP
- Rice imports generate tariff revenue worth over Ksh 900 million per year (KRA, 2003)
- Small-scale farmers, each with acreage of less than 2 hectares, produce over 99 percent of the rice.

4.2.5 *Cotton*

Cotton is a very important commodity to the Kenya economy. Unlike many other crops, cotton is hardy and can be grown in the Arid and Semi-arid

⁷ With increased urbanization and changing feeding habits, rice is likely to overtake maize and wheat earlier than the stated dates.

Lands (ASAL) of Kenya where incidence of poverty is very high. The crop can also perform well in the medium potential regions which in recent times have been characterized by erratic rainfall patterns. Currently, the crop is grown in Nyanza, Western, Coast, Central, Eastern and Rift Valley provinces, largely under rain-fed conditions. Irrigated cotton was also being produced in Hola and Bura (Tana River District) Irrigation Schemes and in parts of Kerio Valley. The irrigation schemes collapsed in the late 1980s though they are currently being revived.

According to a study by Ikiara and Ndirangu (2003), cotton in Kenya is mainly grown by small-scale farmers, estimated to be over 140,000 on-farm holdings of less than 1 hectare. In 2003, total cotton production stood at about 17,800 tonnes, which is very low compared to a production level of 38,100 tonnes in 1980. The sub-sector currently contributes about 0.14 percent to agricultural GDP (Tegemeo, 2005) and accounts for over 0.3 percent of national employment (Wobst, 2004).

Kenya has the potential to produce enough cotton to meet her domestic needs and even for export. The Cotton Board of Kenya estimates that countrywide, 350,000 hectares are suitable for rain-fed cotton production with the potential to produce about 260,000 bales (49,000 tonnes) of lint annually, and 34,500 hectares for irrigated cotton with the potential to produce 108,000 bales (20,000 tonnes) of lint annually. Despite this, cotton production has not yet picked up mainly because of low producer prices caused by importation of cheap products from developed and other developing countries, including neighbouring countries. Between 1999 and 2003, cotton imports increased by 89 percent, justifying the need for designation of the commodity as a Special Product. Further increases in imports are expected with the coming to an end of the international fiber quota system.

Cotton qualifies for designation as a Special Product on the basis of the following indicators, among others:

- A significant proportion of the domestic production is produced in drought-prone areas
- The commodity is mainly produced by small-scale farmers each with a farm holding of less than 1 hectare
- Almost all the cotton is produced by low income and resource poor farmers
- The commodity is highly subsidized by some developed countries such as USA.

4.2.6 Irish potatoes

This is the second most important staple food in Kenya after maize. In 2003, about 1.1 million tonnes of irish potatoes worth over Ksh 6.7 billion were produced. This contributed about 2.5 percent to Kenya's agricultural GDP and 0.6 percent to national GDP. In 2002, irish potatoes food production per capita amounted to about 28.5 kg/year. The commodity supplies an estimated 44 calories per capita per day (FAOSTAT, 2005). The irish potato sub-sector accounts for about 2.4 percent of total national employment.

Irish potato production is largely confined to small-scale farmers in Central, Eastern, Rift Valley, Nyanza and Western provinces. The crop serves as an important substitute crop for maize in Central, Eastern and Rift Valley provinces. It matures much earlier than maize and, generally, it has higher output per unit of input.

Consumption of irish potatoes increased from about 159,000 tonnes in 1992 to 1.06 million tonnes in 2003, an increase of 567 percent. Over this period, irish potatoes registered an average annual consumption growth

rate of 23 percent. The increase has been in response to increasing consumer preference, particularly in urban areas such as Nairobi. So far, the country has been largely self-sufficient in irish potato production although imports of processed products have been on the increase.

Irish potatoes qualify for designation as Special Products on the basis of the following indicators, among others:

- The commodity is the second most important staple food after maize
- Domestic production accounts for over 99 percent of its domestic consumption
- The commodity accounts for over 2.5 percent of the agricultural GDP
- The commodity is largely produced by smallholders, each with a holding of less than 20 hectares.

4.2.7 Vegetables, Fruits, Herbs and Spices (VFHS)

Like the rest of the horticulture sub-sector, VFHS play a vital role in food security, livelihood security and rural development owing to their characteristics such as:

- Adaptability to many of the agro-ecological zones found in the country
- Ability to mature quickly (for most of the crops)
- Relatively high returns.

In 2003, the horticultural sub-sector generated about Ksh 28.8 billion in foreign exchange and Ksh 37.5 billion from internal trade. The sub-sector accounts for about 19 percent of agricultural GDP (Tegemeo, 2005). It is estimated to account for about 12.6 percent of total national employment (Wobst, 2004).

The VFHS sub-sectors are, therefore, a major source of income for Kenya. In 2003, Kenya produced about 2.4 million tonnes of vegetables worth over Ksh 21.4 billion, about 1.96 million tonnes of fruits worth about Ksh 12.1 billion and about 11,000 tonnes of herbs and spices worth Ksh 267 million.

Although some of Kenya's VFHS products have been performing relatively well in the export market, it is worth noting that these exports account for only about 2 percent of the total VFHS production in the country.⁸ The rest is mainly marketed within the domestic market, thus providing income that enables poor small producers to gain access to food. Thus, clearly, domestic horticulture, especially fruits and vegetables, have a very important role in ensuring food security, rural development and acting as a source of livelihood. Some of the crucial domestic horticultural commodities have, however, been facing stiff competition from imports and thus require to be protected as Special Products. Leading the pack are herbs and spices such as garlic, and vegetable and vegetable products such as kidney beans and tomato paste. Table 5 highlights VFHS products that have so far been affected by imports.

Horticultural production, particularly products which are largely consumed in the domestic market (e.g. peas, kidney beans, white pea beans, tomatoes, apples, oranges, grapes, mandarins, garlic, onions and pepper) qualify for designation as Special Products on the basis of the following indicators, among others:

- Horticultural production accounts for about 19 percent of agricultural GDP. Domestic horticulture accounts for about 8.5 percent of agricultural GDP

⁸ In 2003, only about 72,000 tonnes of vegetables, fruits, herbs and spices were exported out of the total production of about 3.25 million tonnes.

Table 5: Import of selected vegetables, fruits, herbs and spices (1998 and 2003)

Product	1998 Value (Ksh million)	Main source	2003 Value (Ksh million)	Mainsource	
Vegetables					
Kidney beans	21.2	Netherlands (81%)	70.5	Netherlands (56%)	233.0
Peas, dried shelled	204.8	Canada (54%) US (28%)	246.1	US (46%)	20.2
Tomato paste	17.5	Italy (65%)	61.0	Italy (57%)	248.6
Herbs and spices					
Garlic	4.6	China (87%)	29.6	Canada (83%)	544.0
Fruits					
Fruit nesoi, fresh	6.9	Spain (42%)	16.9	South Africa (74%)	145.0
Apples	85.2	-	67.0	South Africa (99%)	-21.0
Grapes, fresh	7.5	-	16.1	South Africa (75%)	115.0
Oranges	23.2	-	40.3	Egypt (65%)	74.0
Mandarins and citrus hybrid	2.8	-	3.2	Israel (55%)	14.3

Source: Kenya Revenue Authority (KRA) data, 1998 & 2003

- Small-scale farmers, each with less than 20 hectares of land produce most horticultural product
- Domestic production accounts for over 90 percent of the total consumption of horticulture
- A relatively low proportion of the product is processed in the country as compared to world average.

In line with on-going WTO negotiations, Kenya should exclude from Special Products list any horticultural products in which it is a net exporter. Such products include cut flowers, french beans and snow peas, among others.

4.2.8 *Millet*⁹

Milletts are extremely important in the Kenyan semi-arid tropics. Currently, production stands at about 64,000 tonnes (up from 34,000 tonnes in 1998) with a total value of Ksh 1.14 billion, which is equivalent to about 0.42 percent of agricultural GDP, and 0.1 percent of national GDP in 2003. Overall, millet accounts for about 0.1 percent of total national employment and provides 7.0 kg/year per capita food use. The commodity is an important staple food for communities living in the dry areas of Kenya.

Millet production areas coincide well with most of the areas where the majority of the poor in Kenya live. In terms of national production, Eastern Province accounts for the largest share of 52 percent followed by Nyanza

⁹ Even though sorghum production is much higher than millet production (126,000 tonnes for sorghum versus 64,000 tonnes for millet in 2003), imports of sorghum have generally been very low (worth only Ksh 420,000 in 2003) and the product does not therefore seem to be as vulnerable to imports as millet.

(19%), Rift Valley (15%) and Western Province (13%). Millets have a major advantage of having widespread adaptation in marginal production areas of Kenya. They provide farmers with good opportunities for reliable harvest, food and nutrition in environments with erratic and scanty rainfall, and low soil fertility levels.

While millet production has largely fluctuated between 59,000 and 74,000 tonnes between 1998-2003, imports have increased by more than 1,600 percent over the same period – from 103,900 kilograms worth Ksh 1.8 million in 1998 to 2.6 million kilograms worth Ksh 20.9 million in 2003.

Millet qualifies for designation as a Special Product on the basis of the following indicators, among others:

- The product is produced in drought-prone areas
- It is produced by small-scale farmers each with a farm holding of less than 20 hectares
- Almost all the millet is produced by low income and resource poor farmers.

4.2.9 Oil crops

The most important oil crops for Kenya include groundnuts, soyabeans, sunflower, rapeseed, cottonseed, coconuts, sesame, palm kernels and olives. Oil crops provide about 16 calories per capita per day (FAOSTAT, 2005) and they therefore form an important food component for Kenyans. In 2003, the products accounted for about 0.34 percent of agricultural GDP and 0.08 percent of national GDP. Overall, the oil crops sub-sector supports over 200,000 persons.

Kenya's vegetable oil consumption is currently estimated at about 380,000 tonnes annually. Domestic production, however, covers less than 30 percent of demand and the balance is met through imports. About 90 percent of the imports consist of palm oil from Malaysia.

With the diverse agro-ecological differences that exist in Kenya, oil crops are grown in all provinces except for coconut, which is limited to the coastal area.

Kenya has an installed oil extraction capacity of about 265,500 tonnes per annum and about 342,000 tonnes refining capacity (mainly for processing imported crude palm oil). This capacity is, however, grossly under-utilized due to unfavourable import policies/tariff structure, coupled with low international prices, which has rendered oil milling, solvent extraction and refining of domestic oils uneconomical.

Oil crop products qualify for designation as Special Products on the basis of the following indicators, among others:

- The fact that small-scale farmers whose farm holdings are less than 20 hectares, produce a significant proportion of the produce;
- Majority of the producers engaged in the production of the commodities are low income and resource poor; and
- Only a very small proportion of the products are processed in the country.

4.2.10 Milk and milk products

Dairy production is one of the major activities in Kenya's livestock sub-sector and is a major source of livelihood for the families of about 700,000 small-scale farmers (IFAD, 2004). Milk and milk products are principal sub-constituents of the food basket for majority of the Kenyan population. In total, the dairy sub-sector is estimated to support over 3 million persons. The sub-sector accounts for about 5.7 percent of total national employment (Wobst, 2004); 15.5 percent of agricultural GDP; and 4 percent of national GDP (Tegemeo, 2005). Milk serves as a major source of livelihood for households in seven (out of eight, Nairobi being the only exception) provinces of Kenya. Generally, livestock income

(milk included) accounts for more than 10 percent of total income of poor households in all the seven provinces (Ministry of Planning and National Development, 1998). Milk and milk products provide about 149 calories per capita per day. In 2002, milk production per capita was estimated to be 90 kg/year (FAOSTAT, 2005).

Kenya is largely self-sufficient in milk production (over 99% self-sufficient) except during dry weather spells. Milk production in Kenya relies on rain fed agriculture, leading to fluctuations in production. Milk scarcity is experienced during the months of March to May and a surplus in September to November. Kenya, therefore, imports dairy products to meet the domestic demand during the dry spell.

Between 1991 and 1998, milk production stagnated at about 2.2 billion litres. Since then, production has increased to stand at 2.85 billion tonnes in 2003 (with marketed production worth over Ksh 2.8 billion) and imports of milk and dairy products have been going down. Prior to 2000, the country was importing considerable volumes of dairy products with the highest imports having been recorded in 1992 (41.8 million tonnes) and in 2001 (30.2 million tonnes). However, average annual imports have since gone down to about 6.4 million tonnes over the 2002/03 periods.

While the government is making attempts to revive the dairy industry, it is important that this sub-sector be protected from subsidized exports especially from developed countries. For instance, in 2002, the EU spent over US\$ 1 billion on subsidizing exports of dairy products, which exceeded 40 million tonnes. As a result of this, the average EU export price (CIF ex-Mombasa) has been about half the Kenya's export price (ex-Mombasa).

Milk and milk products qualify for designation as Special Products on the basis of the following indicators, among others:

- Milk is among the most important food products for Kenya. The product contributes about 7 percent of Kenya daily calorie intake.

- The product accounts for about 15.5 percent of agricultural GDP.
- Smallholders produce over 80 percent (SRA, 2004-2014) of Kenya's milk.
- Some developed countries such as European Union heavily subsidize the product.

4.2.11 Meat and meat products (including beef, poultry and poultry products)

Like dairy production, meat production plays a very important role in the Kenyan economy. The meat sub-sector contributes about 23 percent to agricultural GDP and 5 percent to national GDP (Tegemeo, 2005). In 2003, Kenya meat production (including sheep, goats, poultry, pigs, camels, hides and skins) stood at about 295,000 tonnes, which was valued at over Ksh 57 billion out of which products worth Ksh 16 billion were marketed. In total, the sub-sector accounts for about 10.2 percent of total national employment (Wobst, 2004).

The bulk of Kenya's meat comes from the extensive ASAL where poverty incidence is highest. IFAD (2004) estimated that about half of the total beef cattle supply comes from pastoralists who live in Kenya's ASALs while another 26 percent originates from the dairy sub-sector as cull cows and males, and 3 percent from cattle ranches. Sheep and goats contribute about 24 percent of the total red meat in the Kenyan market.

The beef sub-sector is a very important source of livelihood for the very poor people in North Eastern, Eastern and Nyanza provinces. For poor households in North Eastern Province, meat accounts for about 44 percent of total household incomes but for over 50 percent for non-poor households. In addition, it accounts for over 20 percent of both poor and non-poor household incomes in Eastern and Nyanza provinces (Ministry of Planning and National Development, 1998). Poultry and poultry products also form a very crucial component of household incomes in regions

surrounding major urban centres in Kenya. Poultry farmers have, however, been facing stiff competition from cheap imported eggs from South Africa, among other countries, thus threatening their main source of livelihood. These farmers usually have very small pieces of land and are, therefore, heavily dependent on poultry farming.

Meat and meat products qualify for designation as Special Products on the basis of the following indicators, among others:

- Meat accounts for about 23 percent of agricultural GDP
- A very high proportion (over 80%) of the product is produced in drought-prone areas. The product is mainly produced by vulnerable populations in arid and semi arid areas of Kenya
- The sub-sector accounts for over 20 percent of incomes of households in North Eastern, Eastern and Nyanza Provinces
- Domestic production accounts for a very high proportion (over 99%) of its total domestic consumption

4.2.12 Substitute products

Special provisions are required for close substitutes of the proposed Special Products. When negotiating North American Free Trade Agreement (NAFTA), Mexico failed to negotiate for special provisions on corn fructose (a very close substitute for sugar in the ice cream and beverage industries) and this largely contributed to the crisis of the Mexican sugar industry (Pomareda, 2005). In Central American Free Trade Agreement (CAFTA), the issue of soyabean-made dairy substitutes was addressed.

For Kenya, palm and olive oil, whose annual imports amount to over Ksh 1 billion, are considered to be close substitutes of coconut, sunflower and soyabean oils. It is also possible that with changing feeding habits and improved incomes, soyamilk and corn sugar may substitute a significant

proportion of local milk and sugar consumption, respectively. In view of this, it is important that close substitutes of Kenya's oil crops be designated as Special Products. Other potential substitute products would be best handled by developing countries such as Kenya being allowed to not only self-select their Special Products but also to substitute flexibly such selected products whenever other substitutes offer significant threats to the Special Products.

4.2.13 *Tea, coffee, sisal and pyrethrum*

Tea, coffee, sisal and pyrethrum are very important export commodities for Kenya. In 2005, tea exports were valued at Ksh 42.5 billion, coffee exports at Ksh 9.7 billion, sisal exports at Ksh 1.2 billion and pyrethrum exports at Ksh 1.1 billion. While tea contributes about 12.7 percent to agricultural GDP, coffee, sisal and pyrethrum contributed 2, 0.38 and 0.29 percent, respectively in 2003 (Tegemeo, 2005). With the exception of sisal, smallholders account for over 50 percent of production of the other commodities. Although these commodities play a very important

Table 6: FTA by period of tariff elimination

FTA	Period of tariff elimination (Years)
Chile-European Union	10
Canada-Costa Rica	15
NAFTA	15
US-Australia	18
CAFTA-DR	20

Source: Pomareda, 2005

role in supporting livelihood security and rural development, the on-going WTO negotiations suggest that such commodities are not to be designated as Special Products if a developing country member is a net exporter of the product(s). Similar treatment is expected for any other export commodities in which Kenya accounts either for a large proportion of the world exports or is a net exporter.

4.3 Treatment of Special Products

Special Products can be treated in various ways in terms of the length of period for adjustments until zero tariffs, complemented with Tariff Rate Quotas (TRQs) and safeguards. In some cases, exclusion from tariff reduction has been the first reaction to treat products of high sensitivity but with greater understanding of international trade rules, the exclusion issue has become less common in Free Trade Areas (Pomareda, 2005). For most Free Trade Areas (FTAs), the length of time for adjustment has generally been between 10 and 20 years (Table 6).

The July Framework does not rule out exemption of Special Products from tariff reduction and this is the type of treatment that Kenya may seek to negotiate for. In the on-going WTO negotiations, it has been proposed that each developing country member will have the right to self-designate at least 20% of tariff lines in the member's schedule as Special Products (Committee on Agriculture, 2006). For Kenya, it is possible to be within this limit if, for the 11 proposed Special Products (maize, sugar, wheat, rice, milk and milk products, cotton, meat and meat products, irish potatoes, horticultural products (vegetables, fruits, herbs and spices), oil crops and millet), Kenya only designates the tariff lines that are very sensitive to import displacement. The 143 tariff lines (at HS 6-digit level) account for about 20 percent of all agricultural products tariff lines and it is, therefore, within the limits proposed in the WTO negotiations so far.

The designated tariff lines should be excluded from any tariff reduction commitments.

Kenya should also negotiate to be allowed to impose quantitative restrictions as a temporary measure under the special safeguard mechanism (Miencha, Waiyaki and Nyangito, 2006). Although it is recognized that this may be the most distorting among other trade policy instruments, it is nevertheless consistent with GATT 1994 practice in emergency safeguard action or in course of applying balance of payment safeguards. If allowed, Kenya may apply such safeguards whenever import surges occur in the very sensitive Special Products.

5. Conclusions and Recommendations

This section gives the conclusions and recommendations in designating commodities as Special Products considering the on-going WTO negotiations.

5.1 Conclusions

This study sought to identify the agricultural products that may be designated as Special Products for the purpose of receiving Special and Differential Treatment under WTO provisions. Developing countries such as Kenya should be entitled to designate an appropriate number of agricultural products as Special Products based on food security, livelihood security and rural development needs.

On-going WTO negotiations seem to be reaching consensus that each developing country member will have the right to self-designate at least 20 percent of tariff lines in the member's schedule as Special Products. A product qualifies for designation as Special Product if it meets at least one indicator specified under Annex D of the draft possible modalities on agriculture. These indicators relate to the importance of particular products in contributing towards food security, livelihood security and rural development.

Based on the specified indicators, 11 commodities were found to qualify for designation as Special Products. These are: maize, sugar, wheat, rice, milk and milk products, cotton, meat and meat products, irish potatoes, horticultural products (vegetables, fruits, herbs and spices), oil crops and millet. Most of the commodities qualify on the basis of indicators such as:

- (i) Significant proportion of the domestic consumption of the product is being met through domestic production in Kenya

- (ii) Product contributing to a significant proportion of the total caloric intake per capita per day
- (iii) A significant proportion of the total domestic production of the product is produced by smallscale farmers
- (iv) Product contributes to a significant proportion of the total value of agricultural production or agricultural GDP or agricultural income

Overall, about 143 tariff lines (at HS 6-digit level) relating to identified products need to be designated as Special Products. This accounts for about 20 percent of Kenya's agricultural tariff lines and is within limits proposed in the on-going WTO negotiations.

5.2 Recommendations

In order to address the food security, livelihood security and rural development needs of developing countries such as Kenya, it is recommended that:

- (i) Kenya negotiates to self-designate the products identified in this study as Special Products. These products include: maize, sugar, wheat, rice, milk and milk products, cotton, meat and meat products, potatoes, horticultural products, oil crops and millet. These agricultural products should be exempted from applicable tariff reduction regimes or subjected to less demanding tariff reduction mechanisms in the market access pillar under Special and Differential Treatment.
- (ii) Kenya adopts the proposal that developing countries be allowed to self-designate 20 percent of tariff lines as Special Products. This would enable Kenya to designate all food products, particularly those that are very important for food security and for protecting the livelihoods of the poor, as Special Products. The Special Products modality should allow some flexibility for developing

countries to substitute products on 'Special Products Schedule' whenever priorities change.

- (iii) The government and other stakeholders urgently work towards improving competitiveness of the proposed Special Products. At the moment, most of these products face several supply constraints, the major ones being: poor road infrastructure, high cost of farm inputs, high incidence of pests and diseases, poor quality planting materials, and inaccessibility to affordable credit. It is important that these constraints are addressed to boost production of the food products and to facilitate access to cheap food by Kenyans, majority of whom are poor. Most of the constraints could be effectively addressed through implementation of the current Strategy on Revitalization of Agriculture (2004-2014).
- (iv) Kenya and other developing countries negotiate for total elimination of agricultural subsidies (domestic as well as export) provided to farmers and exporters in developed countries. These subsidies create vast surpluses that are dumped in developing countries, driving down world commodity and producer prices and making it more difficult for unsubsidized small-scale farmers in developing countries to compete. This has had major adverse impacts on food security, livelihood security and rural development in developing countries.

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Annexes

Annex 1: Self-sufficiency ratios of some major food commodities

Country	Meat			Vegetable oils			Cereals		
	1985-89	1990-94	1995-2000	1985-89	1990-94	1995-2000	1985-89	1990-94	1995-2000
Bangladesh	1.01	1.00	1.00	0.29	0.38	0.30	0.89	0.87	0.91
Botswana	2.31	1.49	1.70	0.05	0.06	0.07	0.22	0.22	0.17
Brazil	1.07	1.08	1.09	1.42	1.29	1.37	0.93	0.82	0.82
Costa Rica	1.25	1.15	1.13	0.98	1.28	2.18	0.52	0.31	0.23
Cote d'Ivoire	0.82	0.81	0.94	2.23	2.44	1.64	0.60	0.62	0.63
Egypt	0.78	0.86	0.88	0.20	0.14	0.13	0.51	0.63	0.65
Fiji	0.70	0.61	0.64	1.07	0.77	0.59	0.19	0.14	0.09
Guyana	0.98	0.61	0.69	0.60	0.81	0.68	1.06	1.30	2.38
Honduras	1.17	1.19	0.97	1.30	1.16	1.07	0.76	0.75	0.66
India	1.02	1.02	1.04	0.79	0.92	0.75	1.00	1.02	1.03
Indonesia	1.00	1.00	0.99	1.51	1.83	2.21	0.96	0.93	0.88
Jamaica	0.62	0.69	0.67	0.48	0.63	0.15	0.01	0.01	0.01
Kenya	1.00	1.00	1.00	0.21	0.17	0.16	1.03	0.93	0.73
Malawi	1.00	0.99	0.99	0.81	0.34	0.51	0.92	0.79	0.97
Morocco	0.98	0.99	1.00	0.32	0.38	0.35	0.84	0.76	0.53
Pakistan	1.00	1.00	1.00	0.33	0.31	0.28	1.07	1.00	1.03
Peru	0.93	0.98	0.98	0.48	0.36	0.37	0.54	0.42	0.47
Philippines	0.99	0.98	0.94	3.74	3.02	2.93	0.88	0.86	0.78
Senegal	0.96	0.99	0.99	1.78	0.98	0.78	0.65	0.59	0.53
Sri Lanka	1.00	0.99	0.98	1.29	0.62	0.41	0.64	0.64	0.60
Thailand	1.08	1.12	1.16	1.05	0.93	1.17	1.61	1.40	1.41
Uganda	1.00	1.00	1.00	0.71	0.46	0.19	0.98	0.99	0.87
Zimbabwe	1.15	1.14	1.13	0.98	0.78	0.61	1.35	0.97	0.90

Source: FAO, WTO Agreement on Agriculture: The implementation experience, FAO, Rome, 2003.

Annex 2: Average share of agriculture in GDP

Country	Average share of agriculture in GDP (1998-2000) (%)
Bangladesh	24.8
Botswana	3.6
Brazil	7.7
Costa Rica	10.9
Cote d'Ivoire	27.5
Egypt	17.2
Fiji	18.4
Guyana	34.9
Honduras	17.6
India	26.3
Indonesia	18.2
Jamaica	7.0
Kenya	23.3
Malawi	38.5
Morocco	15.3
Pakistan	26.9
Peru	7.9
Phillipines	16.7
Senegal	17.9
Sri Lanka	20.4
Thailand	11.4
Uganda	43.8
Zimbabwe	19.9

Source: FAO, WTO Agreement on Agriculture: The implementation experience, FAO, Rome, 2003.

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- Miencha F A, Waiyaki N and Nyangito H O (2007). *Effectiveness of triggers and remedy for special safeguard mechanism: A case for Kenya's agricultural sector*. KIPPRA Discussion Paper No. 69, Nairobi: Kenya Institute for Public Policy Research and Analysis.
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