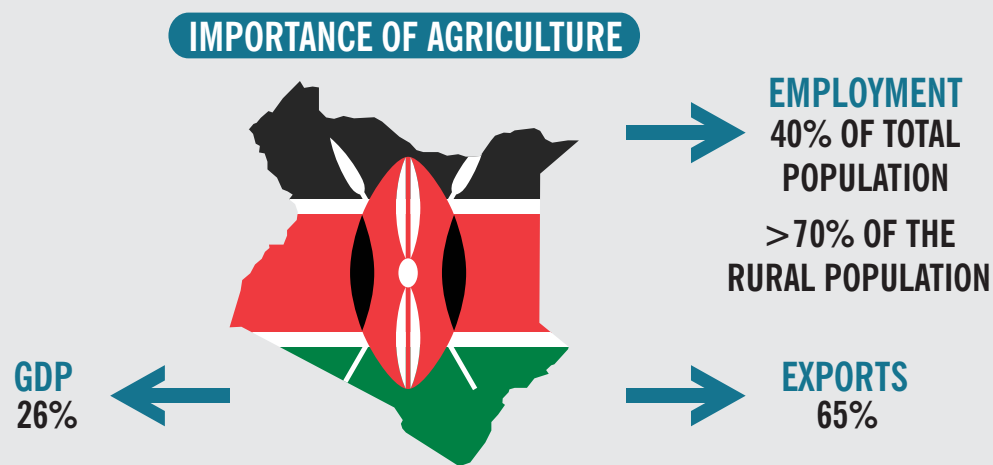




FACT SHEET ON AGRICULTURE IN FREE TRADE AGREEMENTS (FTAS)

AGRICULTURE IS A CRITICAL SECTOR IN KENYA'S ECONOMY AND THE AFRICAN CONTINENT AT LARGE.



SOURCE: United Nations Food and Agriculture Organization (FAO)

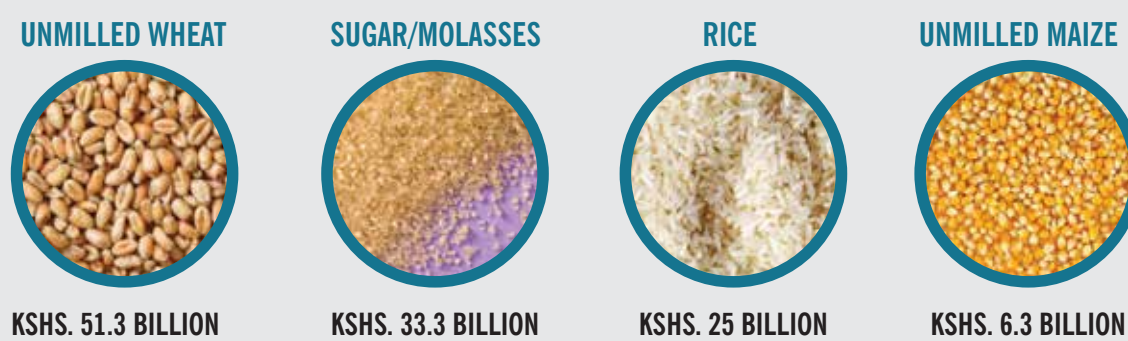
MAIN AGRICULTURAL EXPORTS



SOURCE: Kenya National Bureau of Statistics Economic Survey 2020

DESPITE OF THE IMPORTANCE OF AGRICULTURE TO KENYA'S GDP AND EXPORT EARNINGS, THE COUNTRY CONTINUES TO FACE SUPPLY DEFICITS IN ITS FOOD SECTORS.

MAIN AGRICULTURAL IMPORTS



SOURCE: Kenya National Bureau of Statistics Economic Survey 2020

IMPLICATIONS OF FTAS ON THE AGRICULTURE SECTOR

Majority of FTAs including those involving Kenya cover agriculture within the scope of the agreement. For example, in the Kenya-U.K. Economic Partnership Agreement (EPA), and the Treaty for the Establishment of the East African Community.

In the Kenya-U.S. FTA negotiations that are ongoing, the U.S. have explicitly indicated that some of their objectives for the agriculture sector are to, "Secure comprehensive market access for U.S. agricultural goods in Kenya by reducing or eliminating tariffs," and, "Eliminate practices that unfairly decrease U.S. market access opportunities or distort agricultural

markets to the detriment of the United States, including: (a) non-tariff barriers that discriminate against U.S. agricultural goods; and (b) restrictive rules in the administration of tariff rate quotas."

Additionally, there are other aspects covered within FTAs that have implications on agriculture. These include:

- Subsidies and dumping
- Sanitary and Phytosanitary (SPS) Measures
- Biotechnology
- Intellectual Property Rights (IPRs)
- Digital trade

SUBSIDIES AND DUMPING

DESCRIPTION	CHALLENGE
<p>SUBSIDY: a benefit, usually in the form of financial support, offered by governments to domestic producers that reduce their costs, thus increasing their competitiveness against international producers.</p> <p>DUMPING: occurs when a producer sells their product in the export market at a lower price than they do in their local market. This process of dumping can be proliferated through subsidies.</p> <p>Farmers in rich countries receive greater amounts of subsidies than their counterparts in poorer countries. For example, in 2019 alone, U.S. farms received \$22.6 billion in government payments, and this represented about 20.4% of the \$111.1 billion in total net farm income. Meanwhile, in the financial year 2018/2019, the Kenyan government spent approximately \$613 million in subsidies to support all sectors.</p>	<p>Subsidies offered to farmers in richer countries lower their cost of production allowing them to sell their products in the global market at a cheaper price and could lead to dumping of products. This displaces farmers in poorer countries who are unable to sell their products at these lower prices as they do not receive such extensive support from their governments and generally face higher production costs therefore destroying their livelihoods.</p>

SANITARY AND PHYTOSANITARY (SPS) MEASURES

DESCRIPTION	CHALLENGE
<p>These are laws, regulations, standards, and procedures that governments employ as "necessary to protect human, animal or plant life or health." SPS measures can take many forms such as requiring products to come from a disease-free area, inspection of products, specific treatment or processing of products, setting of allowable maximum levels of pesticide residues or permitted use of only certain additives in food.</p>	<p>Majority of farmers in developing countries often lack the capacity to meet the SPS standards set by developed countries as they are faced with resource deficiencies that curtail their ability to meet these standards. As a result, these farmers are unable to exploit the market access opportunities available under an FTA hence failing to raise farmer incomes as envisaged.</p>

BIOTECHNOLOGY

DESCRIPTION	CHALLENGE
<p>This technology utilizes biological systems, living organisms or parts of this to develop or create different products. This process can result in genetically engineered (GE) products and genetically modified (GM) products.</p> <p>During negotiations, countries may want guarantees related to the trade in products developed through biotechnology. In the U.S. negotiating objectives with Kenya, the U.S. seeks to “Establish specific commitments for trade in products developed through agricultural biotechnologies, including on transparency, cooperation, and managing low level presence issues, and a mechanism for exchange of information and enhanced cooperation on agricultural biotechnologies.”</p>	<p>Trade in agricultural products developed through biotechnologies raise a host of issues including farmers’ rights, public health, environment, and human rights, that need to be explicitly addressed in an FTA.</p>

INTELLECTUAL PROPERTY RIGHTS (IPRS)

DESCRIPTION	CHALLENGE
<p>These are exclusive rights given to persons, for a certain period of time, over the creations of their minds such as books and other writings, musical compositions, paintings, sculpture, computer programs and films. IPRs can also apply to agricultural products developed through biotechnology due to the novelty.</p> <p>While negotiating, countries can advocate for agreements that include IPR obligations that extend beyond those set by the World Trade Organization (WTO) under the Trade-Related Aspects of Intellectual Property Rights (TRIPS) agreement if they feel that the other partner(s) fails to adequately regulate IPRs. These are referred to as TRIPS-plus provisions.</p>	<p>TRIPs-plus obligations have the potential to encroach on the rights of farmers to access seed and other agricultural inputs. For example, in times of supply shortages, these obligations could make it impossible for countries to locally produce generic versions of agricultural inputs thereby farmers cannot access the inputs necessary for production leading to food insecurity.</p>

DIGITAL TRADE

DESCRIPTION	CHALLENGE
<p>Data and data flows have the potential to transform every sector of the economy including the agricultural sector. Big technology companies such as Amazon are now actively involved in agricultural sector. Through automation and the use of technology in agricultural activities, the technology companies can collect data in all stages of the food system including seed, soil and water data on farms, data on commodity movements from farm to table, and consumption data.</p> <p>Consequently, the manner in which data should be handled in a globally integrated system is a great debate and must be carefully considered in FTA negotiations due to the ramifications on the sectors of the economy.</p>	<p>Large technology companies have the ability to influence production and pricing of product by leveraging on data collected in the supply chain. Therefore, FTAs that allow for the free flow of data across borders will affect the privacy and decision-making of farmers as large corporations with access to the data can dictate what can be produced and at what cost the products are sold. This could result in the loss of livelihoods for farmers who receive unfavorable prices for their products.</p>

CONCLUSION

Evidently, FTAs encompass a wide range of issues with implications to the agricultural sector. Therefore, it is extremely critical for governments in countries that rely heavily on the agriculture sector to be prudent and conscientious in their approach to FTA negotiations, to ensure that any FTAs the country eventually signs and ratifies are beneficial to the agricultural sector and its stakeholders.

Some of the recommendations to achieve this include:

COST-BENEFIT ANALYSIS	Cost-benefit analysis on the impact of agricultural trade liberalization for the county and farmers. This analysis should consider the impact of subsidies, biotechnology, and digital trade liberalization.
CAPACITY ASSESSMENT	Capacity assessment of agriculture sector to determine its ability to take advantage of market access opportunities available under the FTA including the ability of farmers to meet the SPS requirements.
STAKEHOLDER ENGAGEMENT	Engaging with stakeholders at levels of the sector to ensure effective participation of all actors in the process and provide an opportunity to raise any concerns.
DEVELOP AN FTA STRATEGY	Develop a strategy for the FTA to counter competition, boost exports and mitigate negative effects of the sector. The strategy should also integrate food security and climate change issues and considerations.
PROTECT DOMESTIC REGULATORY SPACE	The need to protect domestic regulatory space in an FTA so that the government maintains the right to regulate aspects of the FTA to ensure the rights of its citizens are protected.
CONTINUOUS EX-POST IMPACT ASSESSMENT	Upon acceding to an FTA, continuous ex-post impact assessment of the FTA to the sector and engagements with stakeholders is recommended so as to evaluate whether or not the FTA is beneficial and if it is not, institute remedial measures to address the shortfalls.

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