that the NCPB would not be able to pay for the maize delivered to its depots on time, even under conditions of declining producer prices. The delayed payments to the maize producers certainly cause injury to the domestic economy because the local farmers find themselves unable to meet their financial obligations on time. Hence the injury to the domestic economy that can be attributed to the delayed payments to the maize farmers is generally a result of reduced producers' purchasing power.

The reduced producers' purchasing power due to delayed payments triggers a number of problems with serious ramifications on the domestic economy, including the inability of the farmers to purchase enough quantities of improved farm inputs which results in the use of inputs at sub-optimal levels. The use of farm inputs at sub-optimal levels, among other effects, usually leads to poor farm yields, which further weaken the farmers' capacity to improve their earnings. Hence the maize import surges can have significant negative impacts in terms of destroying the rural economy in the maize growing areas of Kenya.

5. FOOD IMPORT SURGES: ATTRIBUTION AND NON-ATTRIBUTION FACTORS

5.1 The major factors that influence food imports in Kenya

Undoubtedly, many factors interact to influence the level of food imports in a given country. It is thus important that a discussion of food import surges gives an overview of the major factors that could influence the levels of the food imports in any country, and that an attempt is made to try and attribute these factors to the surges in the imports of the commodities covered in specific case studies.

The following are postulated to be the critical factors that influence the level of food imports in Kenya:

(i) the general economic environment and the consumers' purchasing power;
(ii) the general policy framework;
(iii) trade policy, particularly with regard to food imports in general and particular food commodities;
(iv) customs and other statutory requirements;
(v) other related economic and non-economic factors.

The above factors are reviewed briefly hereafter.

5.1.1 General economic environment and the consumer purchasing power

Economic theory suggests that per capita incomes and the general price levels are the key determinants of demand for consumer goods, but the level of demand may be expected to be modified by consumer tastes/preferences. Despite the high incidence of both rural and urban poverty in Kenya, estimated at over 56 percent by year 2000 (NWMS, 2001), demand for maize, sugar and liquid milk in Kenya still remains high, especially in urban areas. Any national shortages of any of these three commodities are fulfilled through imports, and this factor helps to explain why Kenya has normally experienced increasing levels of the imports of maize, sugar and dry milk powders whenever prolonged droughts that occasion shortfalls in the local production of these commodities have occurred.

The foreign exchange rate policy pursued by any country is expected to influence the country's domestic and international trade (Commodity Exports and Imports) policy. Rising exchange rates that reflect local currency depreciation tend to make exports cheaper while the imports become relatively more expensive, and vice versa. Available data on the monthly movements in the nominal exchange rate in Kenya between 1998 and 2004 show that there were significant monthly exchange rate fluctuations between January 1998 and December 2004. The exchange rate actually rose from a low of KShs 59.06 per USD in July 1998 to a high of KShs 81.27 per USD in October 2004 *(IMF International Financial Statistics)*.

The Central Bank of Kenya (CBK) attributes much of the inflationary pressure that Kenya has experienced in recent times to the shocks in oil prices (Governor, CBK, June, 2005). The rising exchange rate in Kenya since the 1980s must have decelerated the rate at which Kenya's commodity imports could

have increased, by making the imported goods in Kenya relatively more expensive over the same period. However, food is an essential commodity, and the three commodities covered in this study are among the key commodities that the Kenyans consume. Therefore, the shortfalls in local production of maize, sugar and raw milk whenever Kenya has experienced prolonged drought conditions partly helps to explain why Kenya's food imports have increased even in the face of depreciating local currency.

5.1.2 Kenya's general policy framework

The Government of Kenya is committed to the maintenance of a low and stable inflation, and this certainly affects Kenya's trade policy, particularly with regard to food imports. Experiences across the globe over the years attest to the fact that macroeconomic environments with low and stable rates of inflation provide for easy delivery of long-term economic growth. In the medium to long term, low inflation facilitates a faster growth of the economy, and, therefore, higher employment creation and poverty reduction (Governor, Central Bank of Kenya, June 2005).

Kenya has pursued and implemented a diverse set of economic policies in the past and undertaken several policy reform measures since the country became politically independent in 1963. The current public policy documents fully recognize this factor, including the fact that the country has had some significant paradigm shifts in its policy framework since then. The implementation of the Structural Adjustment Programmes (SAPs) in Kenya in the late 1980s represented the most important policy paradigm shift for the country since 1963. The SAPs were primarily designed to reform and liberalize the major commodity markets in Kenya, including the eradication of the price control and quantitative import restriction regimes that the country had continued to pursue since becoming independent in 1963.

The main changes introduced in Kenya as a result of the implementation of the SAPs in the country include the liberalization and decontrol of: (i) meat prices in 1987 (August), (ii) milk prices in 1992 (May), (iii) agricultural input markets in 1989, (iv) the removal of import duties and value added tax (VAT) on some key agricultural inputs in March 1993, (v) maize marketing in 1993, and financial and foreign exchange markets between 1993 and 1996. The other significant sectoral changes include the privatization of veterinary clinical, dipping and artificial insemination (AI) services in 1991. The policy reforms embraced within the SAPs thus intended to establish a framework of production, marketing, inputs supply and credit in which most of these functions are in the hands of the private sector.

Following marketing reforms in Kenya, the agricultural sector in the country now operates under a relatively liberalized environment. By and large, the past and current policy reforms in Kenya have been designed to align the country to the overall international trend that has come to be referred to as globalization. The objective is to prepare the country to become compliant with the GATT (General Agreement on Tariffs and Trade) and the WTO (World Trade Organization) protocols that govern international trade. This paradigm shift has somewhat guided the trade policy that Kenya pursues today, even though tariffs are still regarded as necessary in order to correct for adverse effects of imports on the domestic economy. In any case, Kenya actually became a signatory to the WTO protocols in 1995 (Nyangito, 2001) and is a committed observer of these protocols. The current policy objectives in Kenya are reflected in the economic development strategy which is spelt out in the blue print that is called the "Economic Recovery Strategy for Wealth and Employment Creation (2003-2007), or simply the ERS. The ERS is grounded on Kenya's desire to create an enabling macroeconomic environment for private sector investments in the country.

5.1.3 Kenya's trade policy

Overview

Kenya became a signatory to the WTO and hence made commitments to the Uruguay Round Agreement on Agriculture (UR-AOA) and other protocols in 1995 while the country was in the process of implementing the structural adjustment programmes (SAPs) which had started in the early 1980s (Nyangito, 2001). Since the SAPs are closely related to the UR-AOA, particularly with regard to the principles of improved

market access that require marketing liberalization, Kenya actually found it relatively easy to make commitments to the UR-AOA. Kenya's commitments to the WTO/UR-AOA include a binding tariff ceiling of 100 percent for all agricultural commodities under the Annex 1 Schedule of the AOA.

Apart from being a member of the WTO, Kenya is also both a member of the East African Community (EAC), that consists of Kenya, Uganda and Tanzania, and the Common Market for Eastern and Southern Africa (COMESA) that consists of 21 countries within this broader African region. Reliable statistics on regional and interregional trade within the EAC and the COMESA trading blocs are difficult to get due to the prevalence of cross-border trade flows that are largely unrecorded.

Under the EAC trade regime, Kenya grants market access to any commodities coming from Uganda and Tanzania at a tax reduction proportion on the normal tariff that is subject to review at the EAC summit from time to time. No other charge is allowable, without direct sanction by the appropriate organs in the EAC.

Under the COMESA Free Trade Area (FTA) protocol, food imports (or any other commodity imports) from Malawi, Zambia, Zimbabwe, Egypt, Djibouti, Madagascar, Mauritius and Sudan should enter the Kenyan market duty free. Kenyan food exports to these countries would also be granted duty free status, provided they are accompanied by certificates of origin. For non-FTA countries, Kenya's trade practices have to be consistent with the COMESA trade protocol.

Policy issues pertinent to dairy imports

The dairy industry in Kenya operates under a fairly liberalized environment, with the Kenya Dairy Board playing an industry regulatory role. As a member of the World Trade Organization (WTO), Kenya is committed to the principles that underpin free trade. Hence the country's dairy development policy aims at the promotion of international trade in dairy products as a means for the rationalization of dairy imports and exports to account for production cycles.

The overarching goal of Kenya's dairy policy is to improve the standards of living of the Kenyans by ensuring food security, increasing the real income of the dairy farmers and raising dairy productivity in order to be competitive in international dairy trade.

Policy issues pertinent to sugar imports

Kenya's sugar industry operates under a fairly liberalized environment, with the Kenya Sugar Board playing the industry regulatory role. Kenya participates in the world sugar trades through four trading regimes:

a) the preferential and quota regime given by the developed countries, particularly under the EU-ACP trading cooperation (previous arrangements under Lome Conventions and new trading arrangements under the Cotonou Economic Partnership Arrangements);
b) the EU Special Preferential Arrangements on Sugar (SPS);
c) the Free Trade Arrangements (FTAs) of the Common Market for Eastern and Southern Africa (COMESA) and the East African Community (EAC);
d) the residual free world market on sugar.

Since international sugar pricing is influenced by special and preferential regimes that have important historical ties with the European Union (EU), the proposed and ongoing EU sugar reforms will have serious ramifications on how the international sugar trade develops in future. The significance of the EU sugar reforms lies in the fact that the EU sugar policy has remained virtually unchanged since the 1960s. This sugar policy has often been attacked on the grounds that it harms the sugar producers in the less developed countries (LDCs) by encouraging huge quantities of heavily subsidized EU sugar to flow into the world market, thus lowering prices. Therefore, there is widespread concern that the liberalization of sugar trade under the World trade Organization (WTO) protocols and the EU sugar reforms are likely to affect the economies of the LDCs.

Policy issues pertinent to maize imports

Reforms on maize marketing in Kenya since 1986 have entailed a gradual transition from the single marketing channel that was being controlled by

the National Cereals and Produce Board (NCPB) as the state monopoly trading corporation to a multi-channel marketing system involving both the government and the private agents. With marketing liberalization, the NCPB has lost a substantial market share in maize marketing in Kenya, but it still remains a major player in grain marketing in the country, alongside the private business entities. Most of these business entities own or rent storage facilities in major producing areas and at the border points in addition to renting space from the relatively underutilized NCPB warehouses.

A major area of concern about maize marketing policy in Kenya after marketing liberalization has been the market distortion caused by the NCPB when the government directs the NCPB to buy maize from the farmers soon after harvesting at producer prices way above the dictates of the market. At the abnormally high prices offered, the NCPB is only able to buy a fraction of the maize from the farmers, due to its cash flow limitations. This distortion discourages investments in the maize marketing. The other key area of concern about maize marketing policy in Kenya after marketing liberalization has been the application of suspended duty to regulate maize imports during the seasons when maize surpluses arising from bumper harvests are projected.

The government introduced the suspended duty in 1994 following substantial maize imports by the private sector that were being blamed for the decline in maize prices. However, the application of the suspended duty has been limited for most of the subsequent years. In fact, over the 1998–2000 period, suspended duty was enforced only once in 1998, and has now been phased out. According to the Ministry of Finance and that of Agriculture, no other charges other than import tariff will be applied as a tool for regulating maize imports.

5.1.4 Customs and other statutory requirements

Food import prices are influenced by many economic and non-economic factors, including the foreign exchange rate movements, customs entry transactions and other statutory import requirements. Such factors can significantly increase transaction costs for the importers.

In Kenya, all the imports of food and other commodities are subject to customs and other statutory requirements. All traders/importers of goods into Kenya must declare them by filling the customs Entry Form C63. To clear the goods imported for commercial purposes, the customs regulations require that an importer uses a clearing agent, or a clearance license be obtained from the Customs Department if clearance is by oneself. Charges by clearing agents range between 1.5 percent and 2 percent of the c.i.f value of the imported goods. Therefore, this requirement is a disincentive to importers because the associated costs significantly eat into their profit margins.

The other requirements for commodity imports include the completion and presentation of the following documents to the customs authorities:

- Import Declaration Form (IDF)
- Original Invoice
- Pre-Shipment Inspection (PSI)
- Certificate of origin for goods to qualify for COMESA tariff
- KEPHIS Import permit
- KEBS Standards certificate
- PHO Health certificate

The food and other commodity imports requirements hinder smooth trade flows by raising the level of transaction costs and, hence, the consumer prices of the imported products. For example, an IDF fee of 2.75 percent is levied on all imports. Pre-shipment inspection (PSI) involves verification of the quality, quantity, price (including currency exchange rate and financial terms) and the customs classification of goods to be exported. The principal aim of applying PSI services in Kenya by the Customs Department is to curb against loss of customs revenue as a result of under-invoiced imports. These inspections also prevent the importation of products that are considered harmful to human health. Food imports are subjected to PSI only if their f.o.b value exceeds USD 5 000.

Food quality standards must be complied with for all imported products. Food imports, as in the case of the imports of all other commodities, are required to meet Kenya's Quality Standards, as prescribed by the Kenya Bureau of Standards (KEBS). Inspection

to verify conformity to quality standards is done at the port of entry, and the food commodity is then released immediately once it is certified safe for human consumption. KEBS Inspection services delay the commodity clearing time and thus add on to transaction costs. However, no fee is charged for these services.

The Entry Port Health Officials (PHO) are also required to subject food imports to inspection to ensure that the imported food meets the prescribed food safety standards, which include testing for radioactive material. Services for the testing of health standards are free, except for the radioactive test (when necessary) which is undertaken at a cost of Kshs 3 000 per consignment.

There are some other **import tariff and non-tariff charges.** Over the years, the government has used tariff and non-tariff charges to regulate food imports. In the case of maize imports, suspended duty was applied once in 1998, principally because of a maize surplus of 29 000 mt in the 1996/97 season. According to the Finance Act 2002, maize imports from both non-COMESA and EAC countries currently attract an import duty of 25 percent. However, there is a waiver, and maize imports from COMESA and EAC attract a preferential duty of 3 percent, which is subject to review from time to time, provided that such imports are accompanied by a certificate of origin issued by a designated authority from the country of origin.

5.1.5 Other related economic and non-economic factors

Humanitarian relief food operations

Kenya has experienced a serious influx of refugees due to political problems in its neighbouring countries (mainly Ethiopia, Somalia and Sudan) over the last two decades. To contain this problem, and with the support of the United Nations Humanitarian Commission for Refugees (UNHCR), Kenya has established two major refugee camps in the country, hosting about 0.25 million refugees. For their survival, the refugees in these camps depend primarily on humanitarian support from the United Nations (notably the UNHCR and the World Food Program, WFP) and non-governmental organizations).

Food commodities imported into Kenya by any of the relief agencies and destined for the refugee camps understandably gets into the country duty-free. Such relief food may be procured yearly or bi-annually, depending on the consumption needs. The three commodities under investigation in this study (i.e. maize, sugar and dry milk powders) do get imported into Kenya by the relief agencies to feed the people in the refugee camps in Kenya. For example, an estimated 5 000 mt of sugar are known to be consumed annually in these refugee camps. Some relief food destined to feed the people who still live in the neighbouring countries but need humanitarian assistance (e.g. in Southern Sudan) is also imported through Kenya.

Food commodities imported into Kenya under the humanitarian relief operations get into the country with tax-waiver advantage and are not supposed to enter the commercial marketing system in the country. However, some spillages do occur, and these inevitably cause market distortions and thus compound the problems associated with food import surges.

Spillages from imported "transit" food commodities

Many of the countries bordering Kenya are land-locked, and these include Uganda, Democratic Republic of Congo, Rwanda and Burundi. Due to the activities of some unscrupulous business people, a significant proportion of the goods imported through Kenya and destined for these land-locked markets is often diverted and sold in the Kenyan market. Again such spillages of commodity imports further compound the problems associated with food import surges.

Porous borders and weak surveillance system

Kenya has about eight official border points that are staffed with the normal administrators and Customs Officials. However, there are many other border points through which goods from the neighbouring countries can enter into Kenya unnoticed—this is the problem of unrecorded cross-border trade, which is difficult to control. Even at the official entry points, the surveillance system is not fool-hardy, and a significant degree of smuggling of goods into the country does

occur. Informal business deals can occur even at these official entry points, whereby traders may be able to smuggle food commodities into the country without proper documentation.

5.2 Food import surges: attribution and non-attribution issues

The interaction of the various factors that influence the level of food imports in a given country, as presented in section 5.1 above, either leads to increases or decreases in the level of food imports, depending on how these factors affect import demand. For all the three food commodities examined in this study, a major cause of the import surges appears to be the shortfalls in domestic supply of the particular food commodities for varying reasons. The evaluations of the periods when the increased levels of the imports of these commodities have occurred in Kenya show that, in most cases, such increases have occurred during and soon after the years when the country has had serious drought conditions.

The evaluations actually show that there were increased levels in the imports of dry milk powders in 1984, 1992, 1994, and from 1998 to 2001 (Figures D7 and D8 and Tables D3 and D4), and these happen to have been the periods when Kenya was experiencing serious drought conditions. Similarly, maize imports in Kenya experienced surges in years 1994, 1997, 2000, 2001 and 2004 at levels much, much greater than the 30 percent threshold (Figure M2 and Table M1), while the sugar import levels were above the three-years moving averages in 1998, 2001, 2003 and 2004 (Figure S6 and Table S1).

Other than the shortfalls in local production of food due to adverse weather conditions, the mismanagement of the local institutions has occasionally contributed to local product deficits. For example, the remarkable increases in dairy import during the 1999/2000 period were mainly as a result of the collapse of the main dairy processing firm in Kenya (i.e. the KCC) due to poor management in 1999. The collapse of the KCC is blamed for the acute shortages of processed dairy products in the country especially between 1999 and 2001. The problems related to the management of the sugar industry are also said to have contributed to sugar import surges in Kenya. Only the maize deficits in Kenya can be said to be primarily attributable to poor weather conditions in the country.

Problems related to the administration and timing of when to order and process food imports can also be said to have contributed to food import surges in Kenya. These problems lead to late arrivals of the imported food products in relation to the timing of when such imports would be needed in the country. The late arrivals of the imported food products imply that the imported products actually get into the country when the domestic production may have improved or risen to the levels that make the combined availability of these products in the country exceed the local demand. Whenever this phenomenon occurs, it creates marketing problems because the traders who trade in the imported products are the same people who would be expected to get their trading stocks from local producers. The result is that the imported food products end up contributing to a build-up of huge carry-over stocks in the succeeding year, thus affecting the trends in the quantities of imported food commodities.

In the case of sugar imports, the late arrivals of the imported sugar are associated with the problems related to the administration of the sugar imports quota allocation. In the case of maize, the late arrivals of the imported maize are associated with the difficulties in getting the approval and the sanctioning of the maize imports on concessionary terms (i.e. duty free) by the government on food security grounds. There have been no reported cases of the delays in the approval and the sanctioning of dairy products that can be associated with the import surges because dairy imports are not usually sanctioned on concessionary terms—the importers have to pay the applied tariff rates.

The level of food import surges in Kenya also appears to be exacerbated by the food relief operations of the WFP. However, such WFP operations are necessary only when the country has experienced drought conditions that lead to the need for external assistance. Other contributing factors to food import surges include the influx of illegal and unrecorded food imports into the country due to cross-border trade. This phenomenon reflects a problem in trade surveillance, yet this is a problem that is difficult to solve.

If one takes the consumer purchasing power and preferences as the main determinants of the food import surges, then one could argue that the factors

that influence the consumer purchasing power and preferences could be considered as non-attribution factors as far as import surges are concerned. Therefore, the factors discussed under section 5.1 above that do not affect food import demand directly could be considered as non-attribution factors for food import surges. For example, the poor weather conditions that reduce local food production from time to time and the poor management of the local food processing industries that create demand for imported products can be regarded as non-attribution factors as far as food import surges are concerned.

The weaknesses in the imports surveillance system lead to influxes of unrecorded food commodities that affect the food import levels in the country and this may also be regarded as a non-attribution factor to food import surges. The same can be said about the poor domestic infrastructure and lack of appropriate technologies that make it difficult to store or process domestically produced commodities to improve their quality and also be able to cope with seasonal fluctuations in domestic production against the background of the relatively stable food demand over time.

6. GOVERNMENT RESPONSE TO IMPORT SURGES

Due to its commitments to the World Trade Organization (WTO) and regional trade protocols, Kenya has responded to increasing levels of food imports by imposing appropriate levels of tariff to ensure that the imported food products do not pose a serious threat to prices at which the local "like", "competitive" or "substitute" commodities trade since 1995. However, such duties have been imposed while taking into account the provisions of the WTO and other trade protocols.

An evaluation of the levels of tariffs imposed on agricultural commodities imported by Kenya since 1996, excluding suspended duties, shows that such import tariffs have generally been lower than 35 percent, which is way below the country's committed or bound tariff ceiling of 100 percent. The government of Kenya has used suspended duties on agricultural commodities to raise import tariffs only when there has been an obvious need to protect domestic production. Kenya no longer uses non-tariff barriers as a form of domestic trade protection (Nyangito, 2001). For example, the government has taken some decisive responses in the case of the increasing levels of dairy imports into Kenya over the last 10 years.

As matter of fact, the Government of Kenya introduced a suspended duty in 1994 following substantial maize imports by the private sector that were being blamed for the decline in maize prices. However, the application of the suspended duty has been limited for most of the subsequent years. In fact, over the 1998 – 2000 period, suspended duty was enforced only once in 1998, and has now been phased out. According to the Ministry of Finance and that of Agriculture, no other charges other than import tariff will be applied as a tool for regulating maize and other food commodity imports. Commitment to this policy stance is validated by the non-application of suspended duty during the 2001/2002 crop season when a maize surplus production of 68 000 mt was recorded following a period of rising imports after the dry 1999/2000 crop season.

Prior to the increases in dairy imports in Kenya in 2001, the applied tariff rate on dairy products was 35 percent, this having been raised from 25 percent in 1999. Following the remarkable surge in dairy imports in 2001, a concerted public debate over the impact of the increasing levels of dairy imports on local production convinced the government that such import surges were injurious to the local dairy industry. Consequently, the government agreed to increase the tariff on imported dairy products from 35 percent to 60 percent through a gazette notice No. 12 of March 2002. This level of tariff was WTO compliant because it is within the bound tariff ceiling of 100 percent for all agricultural commodities that Kenya actually tied itself to after ratifying the WTO protocol in 1995. Despite the government action, the lobbyists were still not satisfied and they continued to call for an increase in the tariff for imported dairy products to 100 percent (***Local Media/The East African, 1st April 2002***).

The government has now restricted the importation of food products that can be sourced locally at competitive terms. This restriction applies to the imports of the three case study commodities. In this regard, the current applied tariff is 60 percent for dairy products and 25 percent for maize, vis-a-vis the country's commitment to the WTO to have a bound

tariff at 100 percent. For sugar, Kenya is allowed under the COMESA trading protocol to impose a maximum tariff of 123 percent, made up of 100 percent tariff, 16 percent VAT and 7 percent SDL to any imports of sugar above the COMESA safeguard quota allocation of 200 000 mt of sugar imports annually.

7. FOOD IMPORTS SURVEILLANCE

Many government institutions can be said to be involved either directly or indirectly in food imports surveillance. These include the Ministry of Trade and Industry, the Agriculture Sector Ministries (i.e. the Ministry of Agriculture, the Ministry of Livestock and Fisheries Development, and the Ministry of Cooperatives and Marketing), the Ministry of Finance (Kenya Revenue Authority—Customs/Domestic Taxes), and the Office of the President (Police Department). The Ministry of Trade and Industry will be involved on trade policy and licensing issues, while the Agriculture Sector Ministries will be involved on policy matters regarding food security and trade, including the issue of when the government should sanction food imports, particularly on concessionary terms on the grounds of food security. These institutions are not adequately staffed to perform their duties effectively. In any case, only the Customs Department (Kenya Revenue Authority) and the Police Department are involved directly in food imports surveillance.

Of course there are a few other specialist institutions that exist to assure food quality and compliance with international standards—such as Sanitary and Phytosanitary Standards (SPS) as prescribed in the WTO trade protocols—stationed at border entry points. These specialist institutions in Kenya include the Kenya Bureau of Standards, Kenya Plant Health Inspectorate Service (KEPHIS), and Public Health Officers (Ministry of Health) and Director of Veterinary Services (Ministry of Livestock and Fisheries Development), and they are supposed to support the Police and the Customs departments in the enforcement of the rules and regulations regarding the imports and exports trade.

Kenya, as reviewed elsewhere, has about eight official border points that are staffed with the normal administrators and Customs Officials. However, there are many other border points through which goods from the neighbouring countries can enter into Kenya unnoticed—this is the problem of unrecorded cross-border trade, which is difficult to control. Even at the official entry points, the surveillance system is not fool-hardy, and a significant degree of smuggling of goods into the country does occur. Informal business deals can occur even at these official entry points, whereby traders may be able to smuggle food commodities into the country without proper documentation. Sometimes, such evasive activities arise as a result of the traders being frustrated by the official documentation and clearance procedures. Therefore, there is need for capacity building and staff rationalization in the various institutions that work closely with the customs and the police departments in order to enhance their skills in imports documentation and surveillance in order to ensure efficiency and discourage evasive activities by the traders.

8. CONCLUSIONS

8.1 Dairy import surges

The analyses undertaken in this paper show that the surges in the imports of dry milk powders in Kenya in the past have been attributable to two major factors: (i) frequent droughts or adverse weather conditions that have adversely affect local dairy production, and (ii) the collapse of the local dairy industry in the 1990s following a number of years of poor management of the dominant dairy processor (KCC) in the country before May 1992, and the failure of the KCC to cope with the effects of the liberalization of the industry after May 1992.

Dry milk powders are “substitutable products” as far as raw milk is concerned because they can be used in the processing of many products that are normally processed from raw milk. As such, any surges in the imports of dry milk powders can be expected to affect the farm-gate or producer prices of raw milk. Consequently, increased imports of dry milk powders are likely to deny the local raw milk producers a market for their raw milk output and thus cause injury to the domestic economy by depressing local producer prices even when the consumer prices for the processed dairy products are rising.

Figure D11 actually shows that Kenya's raw milk producer prices remained relatively depressed even when the consumer prices for the processed dairy products were rising over the last two decades (i.e. since 1985). Consequently, the producer's share of the retail price of the packaged/pasteurized fresh liquid milk was exhibiting a declining trend over the same period (see Figure D12). Hence the surges in the imports of dry milk powders in Kenya that have occurred since 1985 have been injurious to the local dairy industry. This is because the producer prices do not appear to have been rising at levels that would have been conducive for increased dairy investments by the small-scale farmers who account for about 75 percent of dairy production in Kenya.

The government has now restricted the importation of milk products that can be produced in adequate amounts locally, including the dry milk powders that the KCC is able to supply locally, and the long-life (UHT) milk that has been imported from Australia, New Zealand and South Africa in the past. To protect the local industry, the government has put in place measures to protect the dairy industry in the interim as the industry recovers from the shocks of the late 1990s and the early 2000s. These measures include an applied tariff of 60 percent, vis-a-vis the country's commitment to the WTO to have a bound tariff at 100 percent.

8.2 Sugar import surges

Kenya produces mill white sugar, often described as raw sugar. The country imports both raw and refined sugar to meet its domestic requirements, currently estimated at 200 000 mt per annum. Even though the Kenya's mill white sugar (raw sugar) that Kenya produces does not directly compete with the refined sugar imports that go directly for industrial use, it is reasonable to argue that even the imports of the refined sugar, if cheap, do hurt the domestic economy because such imports take away any incentives to invest in refining facilities that would be able to convert the raw sugar produced locally into refined sugar for industrial use. Therefore, Kenya's sugar imports can be described as "like" products in relation to the domestically produced sugar.

Sugar import surges in Kenya in the past have been manifested through the existence of high levels of the inventory of sugar stocks in the domestic sugar factories. The study shows that the problem of the surges in sugar imports in Kenya does not arise directly from price competition, but from difficulties related to the administration of the duty-free quota allocations. The other likely contributor to sugar import surges in Kenya is the influx of illegal and unrecorded sugar imports due to cross-border trade in sugar. This factor reflects a trade surveillance problem, but it is a problem that is difficult to solve.

The difficulties in the administration of the import quota allocations cause delays in the importation of sugar when needed, and the subsequent late arrivals of the imported sugar when it may not really be needed in the country. The late arrivals of imported sugar often create serious domestic sugar marketing problems. The domestic sugar marketing problems arise because the traders who end up trading in the imported sugar are the same people who would be expected to get their sugar trading stocks from the warehouses of the local sugar millers. The result is that the local sugar millers end up with huge stockpiles of local sugar with limited outlets. Consequently, it takes time before they are able to sell off their sugar stocks and thus be in a position to pay for the sugarcane deliveries made by the farmers. Such sugar stockpiles and domestic sugar marketing problems in the recent past were experienced in 2002.

The delayed payments to sugarcane producers hurt the domestic economy in various ways, but primarily through a chain of causation in which the local cane farmers are unable to meet their financial obligations on time. The result is that their debt burden increases. For example, they find themselves unable to pay their children's school fees on time, or clear the credit for their farm inputs in time. Therefore, the difficulties related to the administration of the sugar industry safeguard quota allocations end up causing serious injuries to the domestic economy. For example, the sugar sector in Kenya is known to have suffered a serious injury as a result of the failure by the sugar millers to make payments to the farmers for their cane deliveries as a result of the surges in sugar imports in 2002. Equally, the sugar millers were unable to make payments to the suppliers for the services rendered, and the entire sugar sector accumulated heavy

debts. The high levels of the industry indebtedness following the surges in sugar imports in 2002 are undoubtedly a tangible indicator of injury.

8.3 Maize import surges

Kenya produces the white maize varieties, and these are the varieties that Kenyans consume, either as whole grain maize or as milled maize flour. Ordinarily, Kenyans would deject the consumption of the yellow types of maize varieties that are grown in the United States of America because they associate such varieties with the inputs in the manufacturing of animal feeds. As such, the Kenyan white maize is treated a product that has no close substitute in importation as far as the Kenyan producers and consumers are concerned. The imported white maize grain is thus a "like" product in relation to the domestically produced white maize grain.

Per capita consumption of maize in Kenya is estimated at 98 kg per person per year. Therefore, the total national demand for maize is about 30 million 90-kg bags per year (assuming Kenya's population is now around 30 million). The domestic maize supply deficits have continued to be recorded in the range of from two to six million bags (180 000 to 540 000 mt) annually, and these have usually been met through maize imports.

The analyses of the maize import and export parity prices for Kenya show that Kenya is neither a competitive maize exporter nor an attractive destination for maize exports. This explains why the NCPB has at times been forced to export maize at a loss whenever there have been serious domestic maize surpluses and the NCPB's stores for the Strategic Grain Reserves (SGR) get full, or when the country has occasionally found itself with significant maize carry-over stocks after wrong timings and arrivals of maize imports. Figure M1 indicates that maize imports in Kenya are made when domestic production shortfalls occur: the maize import peaks coincide with the troughs in domestic output of maize.

The industry stakeholders attribute commercial maize import surges primarily to the timing of the arrival of the imported maize into the country. The difficulties related to the approval and sanctioning of the maize imports on concessionary terms (i.e. duty free) by the government on food security grounds lead to delays in the placing of the orders and the actual processing of the imports. Such delays result in late arrivals of the imported maize. As such, the imported maize may get into the country when it is not really needed, especially if some improvements in local supply have occurred.

Under the circumstances, the late arrivals of imported maize lead to huge stockpiles of imported maize in the stores of the local maize millers and these stockpiles create some marketing problems. This is because the maize imports are sometimes undertaken by the traders and the millers who would ordinarily be expected to get their maize stocks from local producers or the warehouses of the NCPB. At other times, the NCPB would be the importer, and the stockpiles of the imported maize in the NCPB warehouses would imply that the NCPB would subsequently be unable to receive maize deliveries from the local producers.

Therefore, the resulting stockpiles of imported maize in the stores of the local maize millers and/or the warehouses of the NCPB following the late arrivals of the imported maize against the background of improving local production would result in limited maize marketing outlets for the local maize producers at the harvesting time. Even if the NCPB were able to receive some maize deliveries from the local farmers when the local traders and maize millers have huge stockpiles of imported maize, the NCPB would be unable to sell off its maize stocks to the local traders and millers. The NCPB would thus not be able to pay for the maize delivered to its depots until it is able to dispose of that maize when the market situation improves, but much later in the year.

The delayed payments to the maize producers due to the inability of the NCPB to dispose of its maize stocks certainly causes injury to the domestic economy because the local farmers find themselves unable to meet their financial obligations on time. Hence the injury to the domestic economy that can be associated with the delayed payments to the maize farmers is attributable to reduced producer purchasing power. This reduced producer purchasing power triggers a number of problems, including the farmers' inability to purchase enough quantities of improved farm inputs, which result in the use of inputs at sub-optimal levels. The use of farm inputs at sub-optimal levels, among other effects, usually leads to poor farm yields, which further weaken the farmers' capacity to improve their earnings. Hence the maize import surges can have a