



TRADE POLICY IN THE CUT FLOWER INDUSTRY IN KENYA

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Abstract

That the cut flower industry is amongst the fastest growing sectors of the Kenyan economy can be seen by its phenomenal expansion within the last two decades. With an annual growth rate of 20 per cent, it is an important source of foreign exchange. And its employment potential continues to grow. About three quarters of its workforce is female, making it one of the sectors where the feminization of labour is most explicitly manifested. More than half of the Kenyan population lives below the absolute poverty line. In this respect, the cut flower industry's role in poverty alleviation takes on a pivotal role considering that the majority of the poor are women. The need for a horticultural trade policy that is gendered cannot be over emphasized. Horticultural trade policy in Kenya is not only large grower/exporter oriented but also the key actors involved in this process tend to be male. Yet the effective participation of the poor workers in the cut flower industry can be greatly enhanced by worker-oriented policy measures. This paper outlines the individuals/institutions that participate in the horticultural trade policy formulation process to inform how gender inclusive it is and identify potential entry points for women's voices to be incorporated.

1.0 Introduction

The cut flower industry in Kenya has witnessed an exponential expansion within the last two decades. With an estimated annual growth rate of 20 per cent it has increased its export volume from 19,807 to 41,396 tons between 1992 and 2001, which was an increase of 108 per cent (HCDA, 2000). Within a relatively short period of time¹, Kenya has surpassed both Israel and Columbia to become the largest cut flower exporter to the European Union commanding a 25 per cent market share. Although there are a numerous flower farms in Kenya, three-quarters of the exports are supplied by about 40 large and/or medium scale operations. This industry has grown from being nascent to one of the leading sectors of the Kenyan economy. Many regard it as "an

¹ In 1998 Kenya was the third largest supplier of cut flowers to the European market after Israel and Columbia.

island of success in a sea of failure”, particularly as traditional exports such as tea, coffee and tourism have been dogged by dismal performance over the last decade.

The cut flower industry is currently the third most important foreign exchange earner after tea and tourism. This industry, which is labour intensive with predominantly youthful female workers, employs approximately 40,000-50,000 employees. In this regard, the cut flower industry is, and continues to be a significant source of employment for women. Given its labour intensive nature and the growth rates so far witnessed, this sector has the potential to absorb an even greater number of women workers. However, the poor employment environment in a number of the cut flower farms and packhouses has increasingly brought into question the extent to which this industry can bring about effective participation of the poor in the labour market. The women workers often face difficult working conditions due to their predominance in the most labour intensive and precarious aspects of production. To a large extent, the industry is characterised by seasonal and/or casual female labour that face increased risks of sexual harassment by the male supervisors. The overtime hours tend to be excessive and compulsory and not fully compensated as required by legislation. The workers are exposed to high levels of chemicals and sometimes without adequate personal protective equipment. Though the wages paid in the cut flower sector are better than the mandatory national minimum wage, they are nevertheless low. The vibrant growth and earnings experienced in this sector is yet to trickle down to the majority of the workers.

Horticultural trade policy in Kenya is mainly driven by private sector (growers and exporters) interests and the government’s pursuit to earn foreign exchange. Policy measures aimed at the horticultural sector are geared towards: enhancing the marketing infrastructure; establishing an improved network of price information; and strengthening of the Horticultural Crops Development Authority (HCDA)². Unlike the coffee and tea sectors, which are also major exports, the government’s intervention policy on the horticultural sector has been and continues to be limited. For example, the government through the HCDA issues export licences, but it does not impose substantial export taxes nor attempt to control the marketing or distribution of the crop. However, the government is now attempting through the Horticultural Bill 2001 (see Box 1) to gain more control in the horticultural industry, which it perceives as a lucrative sector and therefore a source of ready revenue.

Issues concerning workers’ labour rights and participation are not covered in the horticultural trade policy and yet they are necessary stakeholders in this industry. Moreover, few mechanisms, if any, exist which seek to engender the trade policy process in Kenya to ensure the effective participation of female workers in the horticultural industry. The key actors involved in the formulation and implementation of such strategies are mostly male. This underscores the necessity of making this process more gender inclusive. Moreover, the institutional and legal framework concerning trade policy in Kenya is broad and comprises various sectoral policy documents that then represent the official trade policy of the government³. But, there are efforts

² *The establishment of the HCDA in 1967 was due to the Kenya government’s recognition of the potential of export horticulture. In Sessional Paper No. 1 of 1986, horticultural produce, was earmarked as one of the seven commodities that was central to achieving the goals established for agricultural development in Kenya.*

³ *Such sectoral policies are reflected in policy documents such as Development Plans, Sessional Papers, Budgetary Statutes, Medium Term Expenditure Framework and the Poverty Reduction Strategy Paper among others.*

to integrated the various policy documents into one Trade Policy Paper, which is currently being drafted and should be completed within the current (2002-2008) Kenya Development Plan period (ROK, 2002a).

BOX 1: HORTICULTURAL BILL 2001

Due to the rapid growth and liberalization of the horticultural industry the government feels that there is need to restructure it. In this regard, the Permanent Secretary, in the Ministry of Agriculture in 1999 constituted a committee to review the current policy in the horticultural industry and prepare a policy paper. It also involves the review of the current role of HCDA vis-à-vis those of other institutions involved in the sub-sector. Although the policy document is still not complete, it is aimed at coming up with strategies for the development of the horticultural industry in general (HCDA, 2000). The Horticultural Bill 2001 was proposed by a horticultural taskforce commissioned to look into the various problems afflicting the horticultural industry. This taskforce was sponsored by the United States Agency for International Development (USAID).

The Horticultural Bill 2001 is the government's proposal for legislation to govern the horticultural industry. The proposed law seeks to empower the HCDA to collect a one per cent revenue levy on producer's income to finance the development, promotion and coordination of the industry. However, this Bill has met with strong resistance from the private sector players in the horticultural industry, such as FPEAK and KFC. The private sector which prefers a hands-off policy, argues that most of the functions planned for the new HCDA are already being undertaken through the industry's initiatives and that the involvement of the HCDA would lead to duplication of effort and efficiency. The industry is particularly opposed to a plan to levy a one per cent charge on the value of exports, which it views as a form of backdoor tax. This would increase the current HCDA budget from US\$ 512,820 to US \$ 1,769,230.

This paper is structured into five main parts. In the foregoing introduction, a short description on the structure of the horticultural industry sets the background to this paper. The second section maps out the trade policy-making process and attempts a gendered appraisal of the institutional and legal framework guiding it. Section three is a synopsis of the profiles of the key actors involved in this process. Subsequently, in the fourth section other trade policy bodies that are also progressively shaping trade policy are presented. Following on from these reviews, section five goes on to examine the potential role of civil society organizations that have increasingly put the Kenyan cut flower industry on the global spotlight since 2000. The paper concludes by exploring possible entry points for the inclusion of women's voices in the horticultural trade policy process.

2.0 Trade Policy Making Process in the Horticultural Industry

Creating or influencing any trade policy in Kenya is usually influenced by internal demands that may be initiated by individuals or institutions. Some of these could include the Fresh Produce Exporters Association of Kenya (FPEAK), the Kenya Flower Council (KFC), civil society organisations and the mass media. It could also originate from concerned government ministry as part of its obligation to formulate policy (Figure 1).

POSITION OF FIGURE 1

The Ministry of Agriculture is the key ministry involved in the formulation and implementation of all policies affecting the horticultural sector. The Ministry of Trade and Industry, on the other hand, is mandated to initiate and propel trade policy matters. Thus, these two ministries work closely together in formulating horticultural trade policies in Kenya (Figure 1). They also consult with other ministries, and private and public institutions to ensure greater stakeholder participation.

External influences that are increasingly shaping and determining trade policy in Kenya are for example, the World Trade Organisation (WTO). The need to have an integrated trade policy document, for instance, has partly arisen out of Kenya's attempt to fully comply with her obligations in the WTO. Through the technical co-operation and capacity building facility of the WTO, Kenya has since 1998 received assistance under the Jointed Integrated Technical Assistance Programme for Selected Least Developed and Other African Countries (JITAP). This programme is sponsored by the International Trade Centre (ITC), United Nations Conference on Trade and Development (UNCTAD) and the WTO. It has been instrumental in creating awareness of the multilateral trade system in both the public and the private sector in Kenya through various forums such as training workshops, conferences and stakeholder meetings⁴.

The horticultural trade policy process goes through various stages from the time a policy need is identified up to the time when it is given presidential assent (Figure 1). Once a policy need has been identified, the Permanent Secretary in the Ministry of Agriculture sets up a task force to collect views on the policy issue at hand. Then a stakeholder discussion of the views collected by the task force takes place. The Joint Industrial and Commercial Consultative Committee (JICC) and the Department of External Trade play a significant role in coordinating the discussions among the stakeholders (Figure 1). After these deliberations have taken place, the Ministry of Agriculture draws up a draft policy. The office of the Attorney General then prepares (publication and gazetting) a draft bill for parliamentary debate. The cabinet and the President respectively approve the policy to give it legitimacy. Once it receives presidential assent, it becomes an Act. The implementation of the policy is carried out by the relevant bodies either private or public depending on the sections of the Act.

Kenya has no independent body responsible for reviewing and advising the Government on matters of trade and industrial policy. However, there are two main inter-ministerial and consultative committees in Kenya, which advise the Cabinet on economic policy. These are the Joint Industrial and Commercial Consultative Committee (JICC) and the Department of External Trade, in the Ministry of Trade and Industry.

JICC is also the main forum for policy dialogue between the private sector and the Government. JICC, whose main aim is to identify, analyse and implement policies that support the private sector, is appointed and chaired by the Minister for Finance. Permanent secretaries represent

⁴ For instance, the JITAP for Kenya that officially came to an end in July 2002 has facilitated nine meetings for stakeholders in agriculture from both the public and private sector. The ninth meeting was held in May 2002. The purpose of this meeting was to discuss and deliberate on Kenya's contribution to the third phase of negotiations for the first Informal Special Session of the Committee on Agriculture. During this meeting, a team of experts from UNCTAD updated the stakeholders on the status of the on-going negotiations on the Agreement on Agriculture and gave a presentation on the modalities of negotiations and schedules of commitments.

their ministries in JICC, while the chief executives represent the parastatals and private sector. The composition of members in JICC for policy dialogue in the horticultural sector is indicated in Figure 1.

JICC usually constitutes a varied percentage of women, since most of the institutions represented are male-dominated. The number of female permanent secretaries or chief executives of the bodies in JICC determine its gender composition. Currently (2003), it is 10 per cent since it's only the permanent secretary for labour and the chief executives of Kenya Bureau of Standards (KBS) and Kenya Property Industrial Office (KIPO) who are female (Figure 1). Indeed, the gender representation in the various trade policy forums, such as JICC is by virtue of the member's positions and not gender. Thus no deliberate efforts are made to engender the horticultural trade policy process, and yet the majority stakeholders are female.

The Department of External Trade primarily influences trade policy decision-making in the cut flower industry in Kenya⁵, with several government agencies and business lobby groups involved in this sector. Women as a group are not represented in this process. Although women are involved as government officials and business lobbyists, they do not necessarily represent the interests of women. The KAM chairs the Manufactures' sub-committee meetings of the Department of External Trade and together with the KNCCI participate in Kenya's bilateral trade negotiations.

3.1 Key Public Sector Actors

The Horticulture Division in the Ministry of Agriculture is primarily responsible for all matters concerning the cut flower industry. The HCDA that is a statutory board is the implementation arm of the Ministry of Agriculture. It is responsible for the overall co-ordination of the cut flower industry. A board of directors drawn from both public and private sectors runs the HCDA and it obtains its revenue from the cess charged on horticultural produce. The horticultural crops development policy sets out the role of the government in the horticultural subsector. The stated policy of the government is to create an enabling environment for all stakeholders to develop a viable and sustainable horticultural sector. The HCDA as a member of JICC provides views that relate to the promotion of horticultural production, processing and marketing. In regard to implementation of trade policies, the HCDA mainly organises small-scale growers for production and marketing of export crops, training of farmers on proper use of inputs and initiating horticultural projects. The HCDA policy guides sectoral policies in the cut flower industry and its objectives have been and still are to:

- protect, encourage and guarantee local and foreign investment in the sub-sector through appropriate government policies;
- stimulate a flourishing horticultural sector throughout the country to meet food needs and export requirements;
- develop a modern and sustainable marketing system to guarantee and regulate supply and demand;
- ensure the protection of the environment through good agricultural practices;

⁵ *The Department of External Trade in the Ministry Trade and Industry is the section responsible for coordinating the implementation of process of the World Trade Organisation rules in Kenya.*

- encourage investment in modern technology through duty exemption for equipment and inputs like shade netting, PVC, cold storage and fertilizers;
- develop and encourage more use of sea freight for the less perishable and bulky produce;
- generate more employment opportunities within the horticultural sub-sector by introducing labour intensive enterprises and use of appropriate technology;
- contribute to generation of income and alleviation of poverty; and
- earn foreign exchange by diversifying crops grown in suitable agro-ecological zones.

The horticultural industry in general and the cut flower sub-sector in particular is currently accorded a central position by the government due to its importance as a foreign exchange earner and employer. In spite of its rapid growth partly due to a pro-industry policy framework, it is unfortunate that the welfare of workers most of whom are women is not reflected in the HCDA objectives. For instance, it is only the seventh and eighth objectives of the HCDA that make an indirect reference to the workers welfare “ . . . introducing labour intensive enterprises and, . . . income generation and poverty alleviation”, but these do not still address the workers’ rights and welfare nor are they gender specific. Given that the cut flower industry has generated incomes for a number of workers both directly and indirectly and is among one of the most labour intensive agricultural sectors in Kenya, then the HCDA has reason to believe that some of its stated objectives have been achieved. Perhaps, this explains the complacency of the HCDA to the plight of the workers and their lack of realisation of the relationship between worker welfare and fighting poverty in the country. That the cut flower industry is a highly feminised sector is not recognised by the HCDA, since no mention is made of the gender distribution of the workers. There is therefore a need not only for policy measures revolving around workers’ concerns but also for an inclusion of a gendered worker perspective into horticultural trade policy.

The Ministries of Agriculture and Trade and Industry work in close partnership on trade policy matters regarding the cut flower industry. The relationship with the other public sector members of JICC is based on consultations. On issues relating to external trade, the Ministry of Trade and Industry is engaged in the pursuit of horticultural trade policy development on WTO, African Growth and Opportunity Act (AGOA) and regional integration blocs, such as the Common Market for Eastern and Southern Africa (COMESA) and the East African Community (EAC). It is also concerned with export promotion; export processing and investment promotion policies in the horticultural sector. Regarding internal trade, this ministry issues trade licenses and provides funding particularly for the small-scale businesses in the horticultural sector. Both at the external and internal level of horticultural trade policy, this ministry is also responsible for quality control (including industrial standards), trademarks and patents⁶ in the horticultural sector.

3.2 Other Public Sector Players

The Ministry of Labour is consulted on the workers’ health and safety, employment conditions and industrial relations in the cut flower industry. That, this ministry is only consulted indicates

⁶ *The Kenya Industrial Property Office (KIPO) is a government department which currently under the jurisdiction Ministry of Trade and Industry. In the cut flower industry a UPOV (Union for the Protection of New Plant Varieties) royalty has to be paid for each stem sold, this is about 10 per cent of the auction price for the flower variety “alstroemeria”(Thoen, et. al. (forthcoming). Thus, KIPO is concerned with the protection of breeders’ rights in the cut flower industry.*

the lack of importance attached to workers' issues in horticultural trade policy. This ministry should play a greater role in conjunction with the ministries of Agriculture and Trade and Industry, so that the workers' concerns are adequately catered for in horticultural trade policies.

The Ministry of Environment's engagement in policy formulation revolves around environmental issues arising out of the cut flower industry. It is concerned that the cut flower industry should observe national environmental legislation for example, regarding the use of agro-chemicals to minimize pollution. In this respect it seeks to ensure that clauses regarding the environmental management are catered for in any horticultural trade policy. And to ensure that horticultural trade policy is in harmony with economic policy in the country, consultations take place with the Ministry of Finance.

There are several parastatals, which are consulted on horticultural trade policy issues and are thus members of JICC. The Export Promotion Council (EPC) is involved in trade policy since it seeks to improve the trade environment in order to facilitate the production of export goods and services. It is supposed to: suggest export incentives and set export targets; formulate market strategies for specific products; attract investment and finance to the export sector; and liaise with relevant local, bilateral and multilateral trade institutions on measures to boost exports. Due to the importance of horticultural products in Kenya's export market, the EPC has a special horticultural panel in which different stakeholders are represented. The main objective of the Investment Promotion Council (IPC) is to promote investment in Kenya. Its role is to approve investment projects, provide information on investment policy, regulation and opportunities. The IPC participates in trade policy formulation by recommending change of certain policies, strategies and administrative procedures necessary to enhance an investment climate. On the other hand, the Export Processing Zone Authority (EPZA) is mandated mainly to promote investment in the export processing zones (EPZs). Since the horticultural industry is predominantly export-oriented it is a potential investor of the EPZs⁷.

The research arm of the Ministry of Agriculture is the Kenya Agricultural Research Institute (KARI), which carries out research on livestock, crops, soil and water resources. Due to the increasing importance of the horticultural sector in the Kenyan economy, KARI has established mechanisms to undertake contractual research for horticultural farmers. The Agricultural Research Fund (ARF) set up by KARI in 1990 seeks to link private sector horticultural research to the public sector. The Kenya Plant Health Inspectorate Services (KEPHIS) co-ordinates all matters related to plant health. KEPHIS involvement in horticultural trade policy processes includes advisory inputs on regulatory functions of seed and plant health testing and vital sanitary inspection. Whereas, the Pests Control Products Board (PCPB) regulates the importation, exportation, manufacturing, distribution and use of products utilised for the control of pests.

These parastatals at times appear to have similar functions replicating their advisory roles in JICC. For instance, the EPC, IPC and EPZA primarily have similar objectives. There is also duplication of functions between that of PCBC and KEPHIS. For example, the KSUP established under PCBC for training horticultural farmers could have been housed by KEPHIS.

⁷ *There is one horticultural firm operating in one of the EPZs in Kenya, packing fresh vegetables for export.*

Most of these parastatals also contribute to trade policy through their participation in other fora such as the national committees on WTO and AGOA (Tables 1 and 2), the Poverty Reduction Strategy Paper and regional integration blocs, where horticultural trade policy matters are discussed. Sensitising horticultural stakeholders through workshops and seminars indirectly involve these parastatals in the implementation process. For, example, under the auspices of the PCPB, the Kenya Safe Use Project (KSUP) was established in 1991, and is engaged in training of horticultural farmers in the safe and effective use of pesticides. The business community has also been a beneficiary of such dissemination fora. The workers, on the other hand, have not been part and parcel of these sensitisation measures. This is an indication that horticultural trade policy caters mainly for the interests of the grower/exporter and the government.

Further, the actors involved in policy decision making are predominantly male, for example, in the EPC, out of five senior people involved in trade policy process, only two are women (EPC, 2000). Whereas, the IPC's gender composition in the top management of 19 people comprises of 12 men and 7 women. There are feeble attempts to incorporate gender aspects into the activities of these parastatals. For example, the EPC tries to mobilise women groups and institutions to participate in its sensitisation seminars on business opportunities. The IPC decries the fact that although it has tried to incorporate women in its activities very few of them respond to the call for investment. The IPC has under its training programme for horticultural investment has so far sent twelve women to Israel. However, the gender dimensions of these parastatals do not target the female workers in the horticultural sector. Again this underscores the voicelessness of the workers in the cut flower industry.

3.3 Private Sector Actors

The private sector members involved in horticultural trade policy processes are not as numerous as the public sector ones (Figure 1). However they represent mainly the growers, exporters and employers in the cut flower industry and not the workers.

The Kenya National Chamber of Commerce and Industry (KNCCI) is a non-profit making organization, which aims at promoting and protecting the interests of its members in commerce, industry, services and trade. It acts as a two-way channel of communication between the government and the business community. Thus, it is consulted in the formulation stages of trade policies. The KNCCI tries to encourage women to engage in business by providing training and markets for their products. Out of the total labour force in the KNCCI, 15 per cent are women, and out of the 17 directors who are also the institution's managers only one is a woman. In an attempt to redress the gender imbalances, the KNCCI has established a women's department to represent and co-ordinate women's issues.

The Kenya Flower Council (KFC) with 37 members is an association mainly for the larger scale growers and exporters in Kenya. It has a code of practice that all its members are expected to adhere to. The code has both social and environmental criteria, with more emphasis on the later. The KFC is one of the key private institutions representing the horticultural sector in JICC and lobbies for the interests of their members who are mainly the flower producers and/or exporters.

The Fresh Produce Exporters Association of Kenya (FPEAK) was established in 1975 to promote the export horticultural industry, through the provision of market information, business planning support, technical assistance and training for small growers. FPEAK, which was initially wholly funded by USAID, currently receives partial funding from the USAID supplemented by membership fees of the association. It has about 160 small, medium and larger exports. FPEAK is an active lobbyist for private sector interests in the horticultural industry.

The Agricultural Employers Association of Kenya (AEA) is an association that represents the agricultural employers and lobbies for their interests, although it is not a member of JICC, it works closely with the private sector players such as KFC and FPEAK. Since the cut flower industry was put on the global spotlight in 2001 due to campaigns from NGOs, AEA has become more actively involved in the policy initiatives in the cut flower industry. In conjunction with trade unions, civil society and horticultural associations, it is currently involved in drafting the Kenya Standard on Social Accountability that it initiated as Voluntary Private Initiative (VPI)⁸.

The KFC, FPEAK and AEA have formed a steering committee to facilitate this initiative. The Steering Committee has met and held discussions with the KHRC, Central Organisation of Trade Unions (COTU), Ministry of Labour and FKE. According to AEA, all these organisations agreed on the importance of setting up a voluntary private initiative programme for the horticultural and floricultural industries in Kenya. Once, the consultation with the stakeholders is complete, the Steering Committee will hold a symposium in which it hopes to bring together all the stakeholders to meet and deliberate on the viability of a social accountability standard and a body to oversee its implementation. The VPI that has evolved into a multi-stakeholder process could if successful, could be used as an avenue for including workers' concerns into the horticultural trade policy (refer to section 5).

4.0 Other Trade Policy Forums

The Department of External Trade in the Ministry of Trade and Industry is the section responsible for co-ordinating the implementation process of WTO rules in Kenya. When Kenya began to implement the WTO agreements in 1996, this department set up a National Committee on WTO (NCWTO) and more recently one on AGOA (NCAGOA) (Appendices 1 & 2).

The NCWTO, comprises three sub-committees (Goods, Services and TRIPS) charged with the reviewing the national legislation affecting these three sectors and contributing to Kenya's position document at Ministerial Conferences. The sub-committees are further subdivided into task forces, for instance the TRIPS Agreement sub-committee consists of copyrights; patent and trademarks and industrial designs; and plant breeders varieties and biotechnologies among others. The members of the NCWTO and NCAGOA are varied, being drawn from the private and public sectors, the NGOs and academic experts from the local universities. The public sector members are the predominant groups in both committees (Appendices 1 and 2). There is no deliberate attempt to incorporate gender representation on these national committees, since the determining factor for participation in these committees is industry/government interests. However, civil society and trade unions have greater representation in these committees than in

⁸ *Voluntary Private Initiatives (VPIs) are activities that are developed in the context of business social responsibility to be used primarily by the business community.*

JICC (Appendices 1 and 2). And since the WTO and AGOA are increasingly shaping trade policy in Kenya (Figure 1), the civil society and trade unions can increase awareness on the need to have labour issues included into horticultural trade policy.

One of the agreements that the WTO has so far nullified is the Lomé IV Convention (the fourth cycle of the 25-year-old trade and aid support arrangement between the ACP and the EU that expired in February 2000). This nullification is bound to have a negative impact on Kenya's agricultural export earnings. The Lomé IV Convention provided for preferential trade treatment for exports such as tea, coffee, beef, sugar and horticultural crops from the ACP countries. Now in accordance with the WTO, the Lomé IV Convention has to be renegotiated and duties introduced. The Cotonou Economic Partnership Agreement (EPA), which was signed in June 2001 is the successor of Lomé IV Convention and will take effect in January 2008. The horticultural industry and particularly the cut flower sector whose export income in 1998 and 1999 was second only to tea, is likely to be faced with export duties of up to 15 per cent.

During the renegotiations of the Lomé Convention in February 2000, the Kenyan government requested for a 10-year grace period before the 15 per cent duty payment is enforced. But the EU only granted a 5-year grace period for horticultural crops. If Kenya is to maintain its position as the main cut flower exporter to the European Union, then significant restructuring of the sector is necessary. This includes improvement of roads, agronomic practices and storage facilities; reduction of freight charges; and adherence to the sanitary, phyto-sanitary and environmental requirements. It is doubtful whether the restructuring of the sector can be complete within five years. What is likely to happen is that the sector will seek to reduce costs to buffer the duties introduced. The extra costs incurred in this industry in form of taxes are likely to be pushed down the supply chain to the workers, who do not have a strong voice. The impact of this on the women who are the backbone of the cut flower industry is bound to be profound.

The Trade Policy Review (TPR) is a mechanism for assessing the adherence to the WTO rules by its member countries. This review is done periodically and developing countries such as Kenya are reviewed after every 5-6 years. The country in question is asked by the WTO General Council to prepare a policy report showing how it is implementing WTO rules. It is after sending such a report that the WTO General Council makes its independent review. The first Kenyan Trade Policy Review was conducted in 1993 and the second one was conducted in 2001 both by the government and WTO Secretariat.

Various institutions are involved in Trade Policy Review in Kenya. Usually all the members of the National Committee on WTO are invited to the Trade Policy Review Board (TPRB) (Appendix 1). Similar to the National Committee on WTO, the TPRB is usually not gender balanced because women are not well represented.

In the Trade Policy Review process, poor women and men are not consulted as individuals. It is assumed that the organizations/institutions invited to the TPRB represent the individuals (poor men and women). According to the Ministry of Trade and Industry, it is not possible to consult individuals at the grassroot level because the trade policy review is usually done by way of questionnaire, which is "quite technical". Even some of the institutions consulted in Trade Policy Review process do not respond possibly due to the technical nature of the process (per. comm.,

Officer, Ministry of Trade and Industry). Therefore not all institutions are involved in the trade policy review process. In this respect then, the trade policy review mechanism does not seem to capture the interests of the poor men and women but the institutions consulted most of whom do not represent the “poor men and women’s voices”. Moreover, the Trade Policy Review does not make an assessment of the impact of the trade policy on poor men and women. Instead, the assessment focuses on how the country being reviewed has adhered to the rules of WTO.

Others taskforces concerned with horticultural trade policy include:

- The Cotonou Agreement – the government constituted a steering committee in December 1999 comprising of professionals from both public and private sector with a secretariat housed by the Ministry of Trade and Industry. The mandate of this committee is to advise the government on the choice of negotiating objectives for trade arrangements with the EU;
- The EAC committee on trade seeks to advance equal opportunities in trade within the East African Community; and
- The committee on COMESA, whose objective is to promote the utilization of trade opportunities by the Kenyan business community in the COMESA region.

5.0 Potential Role of Civil Society Organisations

The horticultural trade policy process in Kenya does not include the civil society organisations and yet they have the potential of bringing workers’ concerns to the forefront. In the last five years or so, the social conditions in the cut flower industry in Kenya have attracted attention both at the local and global levels. In Kenya, the civil society organisations, which have alleged that there are gross worker violations in some of the cut flower farms, have increasingly put the local cut flower industry on the global spotlight since 2000. More recently, Women Working Worldwide and the Ethical Trading Initiatives of the UK have also been drawn into the debate on the social conditions existing in the cut flower farms. This has led to a spirited campaign to improve working conditions, at times pitting the industry against the civil society organisations.

An overview of the civil society organisations that have been lobbying for the improvement of working conditions follows. Kenya Women Workers Organization (KEWWO) is a rights and advocacy organisation that was established in 1990. KEWWO draws its membership from three categories of women: wage earning workers; self-employed workers and rural peasant farmers. KEWWO, which also has members from the cut flower industry, seeks to negotiate with the necessary authorities for better conditions for wage earners. It also attempts to secure representation of women workers on government boards and committees dealing with labour, production and trade. KEWWO is a member of the Labour Law Reform Taskforce that is responsible for reforming the labour laws in Kenya. Further, it is also a participant of the Gender Mainstreaming Committee in the Ministry of Social Affairs. This committee is supposed to advice the government on how to mainstream gender into government policies. KEWWO represents the women workers in this instance. With regard to trade policy this organisation carries out public campaigns and negotiations with the relevant authorities and stakeholders for better conditions for wage earners and better trading conditions for the self employed.

The Kenya Human Rights Commission (KHRC) acts as a watchdog of workers’ welfare in the horticulture sector. The KHRC’s flower campaign that was officially started in 2001 has been

instrumental in bringing attention to the plight of the workers in the cut flower industry. It is increasingly being recognised as a key stakeholder in the cut flower industry. For instance, VPI steering committee that is drafting the Kenya Standard on Social Accountability works closely with the KHRC.

Econews Africa is involved in creating awareness for better terms of trade both at the national and international level. Econews Africa currently participates in stakeholder discussions on the Agreement on Agriculture of the WTO. Action Aid Kenya participates in trade policy process through its representation in the various trade policy forums such as the national committees on WTO and AGOA. Action Aid Kenya is involved in campaigns on food rights with a focus on the Agreement on Agriculture as well as on WTO agreement on TRIPS among others. For instance, in 1999, Action Aid Kenya recognized the need to consult and interact with the government to address issues concerning agriculture and intellectual property rights in the WTO. This helped to significantly ease the government's suspicion of NGOs and led to the development of an enabling partnership between the civil society and government. The International Union of Food (IUF) focuses on trade policy in general and its impact on workers and community at large. It looks at aspects of international trade such as WTO agreements on agriculture and how these agreements affect workers and the community at large. Apart from Econews Africa and Action Aid (Appendix 1), none of these civil society organisations participate in trade policy forums. Thus they try to influence trade policy mainly through campaigns and lobbying.

The flower campaign is finally beginning to bear fruit resulting in some positive changes on the social conditions in the cut flower industry. There is now a move towards employing more permanent vis-à-vis seasonal and/casual labour. The working environment is progressively being made more gender sensitive. For instance, paid maternity leave and lighter duties for pregnant women. Farms/packhouses are increasingly adopting codes of practice that include labour conditions.

Finally, a multi-stakeholder process is emerging which if successful could be used as an entry point for including workers voices in horticultural trade policy. Even more significant is that some of the actors involved in this process are gender-based organisations that could ably represent the female workers in the industry. The multi-stakeholder process is a brainchild of the VPI (see section 3.3).

The previously adversarial relationship between the cut flower industry and the civil society is gradually changing to one of a more constructive and inclusive dialogue. As the civil society campaign gained momentum and hostilities between the two reached its climax, consultative meetings attempting to broker peace between the two were held in October 2002. This was facilitated by the Department for International Development (DfiD) and the Netherlands Embassy in Kenya. By November 2002, the public sector members of JICC had been brought on board.

This multi-stakeholder process, seeks to establish a quartro-partite arrangement that includes industry, civil society organisations (workers), and government and trade unions. However, the later are yet to come fully on board, as they prefer to stick to the tripartite pact that does not recognise the civil society as stakeholders who can represent the workers. And this among others is symptomatic of the teething problems facing this process. Although the multi-stakeholder

process is a voluntary process with no legal bond, its potential in tilting horticultural trade policy towards worker concerns is enormous. The wind of change blowing over the cut flower farms/packhouses, albeit small indicates the powerful role of civil society campaigns and lobbying. Thus it is only through the inclusion of organisations such as the Kenya Women Workers Organization (KEWWO) and Workers Rights Alert⁹ (WRA) in the formulation of the policy process that worker welfare can be improved.

6.0 Conclusion

The trade policymaking process in general and that of horticultural industry in particular involves numerous actors. For instance, the membership of JICC in the horticultural trade policy processes is predominantly public sector oriented. This is a reflection of the numerous institutions and broad legal framework guiding horticultural trade policy in Kenya. This has resulted in overlapping and sometimes conflicting jurisdiction and duplication of this trade policy. For instance, the distinction of role of PCPB and KEPHIS in educating the public on the safe use of agro-chemicals is not very clear.

It is however unfortunate that gender-informed horticultural policy is far from being realized in spite of the fact that the horticultural industry in general and cut flower industry in particular is dominated by women workers. Female representation in the policy decision-making processes is limited. Indeed, the small proportion of women who happen to be in these trade forums find themselves there by default and not as representatives of women. Therefore it is not surprising that women horticultural workers' voices have not been felt in the horticultural trade policy. This is because gender representation is not considered as an issue in the composition of the trade forums. The selection of those to be included in these trade policy forums is usually based on the policy problem at hand, which determines who is to be invited. The Ministry of Trade and Industry that coordinates trade policy issues usually targets umbrella organizations (such as the FKE, Ministry of Labour) to represent individuals. The assumption is that these umbrella institutions will represent the voices of poor men and women. Unfortunately, this is not usually the case. Furthermore, most of the organisations that work closely with the poor men and women (such civil society organisations) are hardly invited because the Ministry is sometimes not aware of their existence nor consider them as stakeholders. Thus the representation of NGOs as such is very limited. In addition, even the institutions that are invited do not necessarily represent the institution because the style of invitation is such that it targets individuals. Such invitations imply that these individuals then, do not act on behalf of their respective institutions. Civil society organisations should be used as entry points. The opportunities for women horticultural workers to influence the trade policy is through strong lobby groups including community based organizations so as to counter the influential and strong "cartel" of growers/exporters associations such as KFC and FPEAK which usually have an upper hand in the horticultural trade policy making process, who seek to expand their production at the expense of the workers.

⁹ *The Workers Rights Alert is a network of NGOs that monitors workers rights in various sectors in Kenya. Initially, it was a pressure group which successfully launched a campaign against worker's rights violations in Del Monte – a pineapple canning firm in Kenya. Its campaign led to the drawing and signing of Memorandum of Agreement between the Del Monte management and the trade union representing the workers.*

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APENDIX 1: MEMBERS OF THE NATIONAL COMMITTEE ON WTO

PUBLIC SECTOR	<ul style="list-style-type: none"> • Ministry of Trade and Industry • Department of Tourism • Kenya Industrial Property Office. • Kenya Institute of Business Training • Ministry of Finance and Planning • Ministry of Agriculture and Rural Development • Ministry of Foreign Affairs and International Cooperation • Ministry of Labour and Human resources Development • Office of the President • Ministry of Health • Ministry of Environment and Natural Resources • Ministry of Information Transport and Communications • Attorney General's Chambers • Central Bank of Kenya • Kenya Revenue Authority Customs and Excise Department • Kenya Bureau of Standards • Export Processing Zones Authority • Export Promotion Council • Commission of Insurance • Kenya Tourism Federation • Telkom Kenya • Capital Markets Authority • Investment Promotion Centre • Communications Commission of Kenya • KEPHIS
PRIVATE SECTOR	<ul style="list-style-type: none"> • KAM • KNCCI • Association of Kenya Insurers • FPEAK • Federation of Kenya Employers • Kenya Airways • Kenya International Forwarders and Warehousing Association (KIFWA)
NGOs / TRADE UNIONS	<ul style="list-style-type: none"> • Maendeleo ya Wanawake • Central Organisation of Trade Unions (COTU) • Action Aid (Kenya) • Consumer Information Network • The Kenya Coalition for Access to Essential Medicines • Econews
RESEARCH/ INSTITUTIONS ACADEMIC	<ul style="list-style-type: none"> • Kenya Institute of Public Research Institute • Academics from the University of Nairobi • African Regional Centre for Computing

APENDIX 2: MEMBERS OF THE NATIONAL COMMITTEE ON AGOA

PUBLIC SECTOR	<ul style="list-style-type: none"> • Ministry of Trade and Industry • Ministry of Finance and Planning • Ministry of Agriculture and Rural Development • Ministry of Foreign Affairs and International Cooperation • Ministry of Labour and Human resources Development • Ministry of Health • Ministry of Environment and Natural Resources • Ministry of Information Transport and Communications • Attorney General's Chambers • Kenya Bureau of Standards • Export Processing Zones Authority • Export Promotion Council • Investment Promotion Centre • KEPHIS
PRIVATE SECTOR	<ul style="list-style-type: none"> • KAM • KNCCI • FPEAK • Federation of Kenya Employers

