

ETI Briefing

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Addressing labour practices on Kenyan flower farms

Report of ETI involvement 2002-2004

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About ETI

The Ethical Trading Initiative (ETI) exists to identify and promote good practice in the implementation of codes of labour practice, including the monitoring and independent verification of code provisions. We are an alliance of companies, trade union organisations and non-government organisations (NGOs) committed to working together to achieve that aim. Our ultimate goal is to ensure that the working conditions of workers in companies that supply goods to consumers in the UK meet or exceed international standards.

The ETI Base Code is founded on International Labour Organisation (ILO) Conventions and has become a model on which other codes are based. ETI's Base Code can be seen in full on our website (www.ethicaltrade.org).

We were established in 1998 as an independent, not for profit organisation. We are funded by member contributions and a grant from the UK Department for International Development (DFID).

Intended audience for this report

This report has been written in order to record ETI members' involvement in addressing labour standards on Kenyan flower farms supplying ETI corporate members. It is also intended to share lessons learned from this involvement. It will be of particular interest to ETI members and flower industry stakeholders in Kenya. The report may also be useful for companies, trade unions, governments, horticulture industry organisations and non-governmental organisations working on labour standards in horticulture at national or international level worldwide.

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Glossary of relevant organisations, their acronyms and websites

Kenyan NGOs

- KEWWO Kenya Women Workers Organisation
- KHRC Kenya Human Rights Commission, www.khrc.or.ke
- WRA Workers Rights Alert (coalition of NGOs)

Trade unions

- IUF International Union of Foodworkers, www.iuf.org
- ICFTU International Confederation of Free Trade Unions, www.icftu.org
- KPAWU Kenya Plantation and Agricultural Workers Union (IUF affiliated)

Industry:

- AEA Agricultural Employers Association (Kenya)
- FPEAK Fresh Produce Exporters Association of Kenya
- KFC Kenya Flower Council, www.kenyaflowers.co.ke
- MPS Milieu Programma Sierteelt, Dutch certification body for the flower sector, www.st-mps.nl/ukdefault.asp

Kenyan government

- HCDA Horticultural Crops Development Authority
- KEPC Kenya Export Promotion Council
- MOARD Ministry of Agriculture and Rural Development
- PCB Pesticide Control Board
- KARI Kenya Agricultural Research Institute

Foreign government

- DFID Department for International Development, UK, www.dfid.gov.uk
- RNE Royal Netherlands Embassy, www.netherlands-embassy.or.ke

Other

- HEBI Horticultural Ethical Business initiative (Kenya flowers stakeholder group)
- WWW Women Working Worldwide, www.women-ww.org
- IFC International Flower Coordination (network of European NGOs, TUs and the IUF)
- FLP Flower Label Program, www.flower-label-program.org
- EUREPGAP Euro-retailer Produce Working Group on Good Agricultural Practice, www.eurep.org
- Africa Now www.africanow.org

Executive Summary

In autumn 2002 an ETI NGO member (Women Working Worldwide) circulated a report of violations of workers' rights on Kenyan flower farms to ETI company members sourcing flowers from Kenya. The ETI Secretariat then organised a visit to Kenya to meet with workers and industry stakeholders in November 2002. This was attended by representatives of ETI company members as well as the relevant NGO member.

Following that visit, it was clear that members faced various problems with regard to implementing codes of conduct in the flower industry. These are described in Section 2. There were a number of workers' rights violations, as well as problems with how social auditing was being conducted on flower farms. This situation existed despite a number of initiatives to address labour standards on farms supplying members.

In 2003, those concerned in both Kenya and the UK established or re-activated platforms for ongoing dialogue and actions to resolve the problems identified. These activities are detailed in Section 3. In the UK, a working group of interested members was established, known as the ETI Flower Forum. This aimed to discuss and address issues existing in both the market and supply sides of the flowers supply chain and to share information and good practice. In Kenya, NGOs, government, industry and other stakeholders formed the Horticultural Ethical Business Initiative (HEBI) to work together to assess the situation for workers on flower farms and create a common code and social auditing methodology. HEBI members hoped that this in turn would enable workers and management to address issues arising from the improved audits.

During 2003, HEBI stakeholders developed and tested their new draft code and social audit methodology, which was shown to generate benefits for all parties. This activity and its results are outlined in Section 4. In early 2004, HEBI's stakeholders granted HEBI's governing body an additional mandate for action. While progress was slow in 2004, a HEBI secretariat is now in place and staffed to take forward the work agreed. Priorities for the future include revising and finalising the draft HEBI code, audit methodology and tools; conducting training on awareness creation and social auditing and creating a pool of trained HEBI social auditors.

2003-2004 also brought changed practices for ETI company members in how they implement labour standards in their flower supply chains, also outlined in Section 4. While this work focussed on Kenya, members also independently applied learning to other relevant areas of their supply chains. Particularly noteworthy was the increased involvement of suppliers, including three UK-based suppliers of flowers who joined ETI, as well as some changes to retailer buying practices. The combined work of participants in Kenya and the UK led to some improvements in working conditions for workers on Kenya flower farms and to the establishment of systems for continuous improvement.

HEBI stakeholders in Kenya are continuing to work and take action together to address ongoing issues. In the UK, the ETI Flower Forum is now closed, but dialogue continues between trade union, NGO and company members through the meeting caucuses which already exist within ETI. Addressing labour practices in the specific context of the Kenyan flower industry has generated a great deal of learning for ETI members involved. We hope this report enables that learning to be shared with all those for whom it is useful.

1. Background to ETI involvement

1.1 Campaigns on the Kenyan flower industry

From the early 1990s, national and international trade unions and non-governmental organisations (NGOs) have campaigned about social and environmental conditions in the cut flower industry worldwide. These campaigns included raising awareness among consumers in market countries, in particular in continental Europe, about the conditions in the industry in both Latin America and Africa. As a result, a variety of networks of interested organisations were created across continents to work together to address these issues.

One country that has come under scrutiny is Kenya. Kenya is the largest exporter of cut flowers to the European Union. Just under 20 per cent of Kenya's flower exports in 2003 were sold directly to the UK, with others exported to Holland and then imported to the UK from there. Many UK supermarkets have direct buying relationships with Kenya flower exporters. The Kenya horticulture industry employs over 50, 000 people, and therefore indirectly supports hundreds of thousands of Kenyans.

In 2002, two conferences were held in Nairobi, Kenya that included discussions on the flower industry. The first was held in February, entitled 'Corporate Responsibility and Workers Rights', the second was in May entitled 'Human Rights and Development of International Obligations for Corporations'. These were organised by the Workers Rights Alert (WRA), a coalition of non-governmental organisations that monitors workers rights in various industries in Kenya. The WRA had previously organised a campaign against Del Monte Kenya at a pineapple canning plant, which was resolved to the benefit of both workers and Del Monte.

At both conferences, participants discussed the idea of linking up with partners in Europe to campaign about working conditions in the flower industry. Discussion included the possibility of a call for consumers in European markets to boycott Kenya flowers. Some participants at the February conference agreed that if Kenyan horticultural exporters did not agree to address issues in the industry by May that year, plans for a campaign with European partners would proceed.

1.2 Women Working Worldwide involvement

A UK-based NGO, Women Working Worldwide (WWW), had a representative present at the May 2002 conference in Nairobi. The representative, Angela Hale, suggested to conference participants that one channel for international action would be through the Ethical Trading Initiative, of which WWW was a member. WWW proposed to use the ETI *Alleged code violations procedure*, under which information alleging labour rights violations is brought to the attention of members whose supply chains are involved, and a dialogue and process for resolving issues is agreed¹. WWW also indicated that a consumer boycott would harm vulnerable workers on Kenyan flower farms.

Workers on flower farms in Kenya are predominantly women. WWW works as a partner of a Kenyan NGO named Kenya Women Workers Organisation (KEWWO). KEWWO is a human rights and advocacy organisation working on behalf of Kenyan women workers. Following the May conference, WWW funded KEWWO to conduct a survey of labour rights violations with workers on flower farms. This survey was carried out between May and September

¹ <http://www.ethicaltrade.org/Z/lib/2001/11/codeviolguid/index.shtml>

2002, interviewing 120 workers. A report of the responses given aimed to provide the information required to start use of ETI's *Alleged code violations procedure*.

WWW circulated the KEWWO report to ETI retailer members sourcing cut flowers from Kenya in September 2002, in confidence. WWW asked retailer members not to circulate the report to their suppliers in Kenya, or anyone else, in order to prevent misuse of the information or it being passed to the media. There was a concern at this time that the wrong approach to the alleged violations would result in supermarkets moving supply away from Kenya, thus losing jobs for Kenyan horticulture workers.

1.3 ETI members' visit to Kenya

The KEWWO report did not contain some of the information required by the *Alleged code violations procedure*, and in fact that procedure was not followed in the subsequent actions taken by ETI members. Instead, the seriousness of the allegations in the report meant that ETI retailer members reacted rapidly to its contents and the response and actions of members and the Secretariat developed their own momentum as outlined below.

Some retailers immediately sent the report to their suppliers in Kenya. This led to the misunderstanding in Kenya that ETI would call for a boycott of Kenyan flowers, thereby causing disruption to the flower industry. There was widespread confusion among Kenyan stakeholders about the aims and purpose of ETI. Many Kenyan suppliers responded directly to their retailer customers and to ETI, refuting the allegations in the report, stating that they did not relate to farms supplying UK supermarkets. Some mentioned that they had undergone a number of social audits against a number of different standards, conducted by a variety of parties. Some recognised that there were areas where improvements could be made, and welcomed the possibility of dialogue.

Initially, WWW had planned to bring two Kenyan workers to the UK to meet with ETI members and share their stories. However, in order to avoid further confusion about ETI's aims, the ETI Secretariat and member companies agreed in October 2002 to send a delegation of members and Secretariat staff to visit Kenya and meet with workers, exporters, NGOs, the UK Department for International Development (DFID) and other industry players. This delegation spent one week in Kenya in November 2002 meeting the different stakeholders and visiting flower farms. It included three representatives from two major supermarkets, Angela Hale from WWW, and the Chair and a Project Manager from ETI. The visit included meetings with two large groups of workers: some current, some formerly employed on flower farms. The Chair also met with the leader of the Kenya Plantation and Agricultural Workers Union (KPAWU). The trip culminated in a stakeholder meeting of all government and industry players except trade unions (who declined to attend). The stakeholders meeting aimed to:

- clarify the role of ETI and its members
- share ETI's experience to date of problems with many social auditing methods
- express support for improvements previously made in the Kenyan flower industry
- encourage the process of dialogue which at that point was commencing in earnest.

2. Issues in ETI members' supply chains

Following the visit to Kenya in November 2002, it became clear that members faced two main issues with regard to their Kenya horticulture supply chains. The first issue was the abuse of a variety of labour rights that was taking place on a number of farms.

The second issue was that despite extensive social auditing of the flower industry in Kenya over a number of years, these abuses of workers' rights had not come to light earlier. As a result it was clear that there were significant problems with the social auditing methods in use by retailers, flower farms and other industry players in Kenya. This was a grave concern, since members were aware that in fact the Kenya flower industry was quite advanced in terms of social auditing compared to some of the countries with which Kenya is competing, either elsewhere in Africa or in Latin America.

2.1 Issues facing workers

The issues raised by workers (representing their experience) in face to face meetings with the ETI delegation corroborated the allegations in the KEWWO report. The main issues were:

- low pay
- lack of adequate housing
- health and safety issues, in particular with regard to pesticide spraying
- sexual harassment, in particular by supervisors
- lack of severance pay
- short-term contracts
- lack of maternity leave
- unfair dismissal
- excessive overtime
- deductions from pay
- lack of freedom of association
- lack of contracts
- social security payments not met
- abusive supervisors

In order to give an in-depth understanding of workers' experiences of these abuses, they are outlined in more detail below under the relevant clauses of the ETI Base Code.

2.1.1 Freedom of association and right to collective bargaining

- Workers not allowed to join union
- Workers who join unions laid off at earliest opportunity
- Union members moved to less senior positions (eg management to maintenance), therefore workers do not join union.

2.1.2 Working conditions are safe and hygienic

- Lack of Personal Protective Equipment (PPE)
- Pesticide spraying instructions not followed (sometimes owing to illiteracy, yet many literate staff not promoted to spraying)
- No/few first aid boxes or trained first aiders
- Abuse of chemical coding systems, instead giving dangerous pesticides a short re-entry time
- Injured workers find that supervisors try to find mistakes as cause of accidents

- Only workers seen by visitors given PPE (such as those who grade flowers)
- Transport overcrowded and/or unventilated
- Vehicles used to transport flowers also used for transporting workers
- Transport only provided in morning, not evening (therefore can be especially dangerous for women if they are working and travelling alone late at night)
- Spraying taking place while workers are in greenhouses
- Certain chemicals hidden during audits
- Lack of medical treatment for serious problems potentially related to chemicals
- PPE only distributed after workers threatened to complain to local NGOs
- Insufficient protection for coldstore workers
- Lack of potable water
- Workers unable to wash hands in clean water before eating
- Many workers complaining of work-related illness unfairly dismissed or intimidated to prevent them from complaining further or seeking compensation.
- Three people living in 10x10ft house; five to a house; separate families sharing one house
- Drinking water and sewage not separated properly
- Insufficient latrines
- Kindergarten very overcrowded.

2.1.3 Living wages are paid

- Low basic rates of pay per day on some farms (as low as KSH 64 in 2002, equivalent to 50p per day)
- No payslips received, just cash in hand
- Lack of severance pay/dues owing not paid
- When laid off, no payment received for previous days working
- Deductions made from wages or unfair dismissal when pay questioned
- Medical expenses deducted from salary.

2.1.4 Working hours are not excessive

- Overtime payments not correctly paid and/or poorly communicated
- Workers sacked when they do not agree to work overtime
- Workers required to work long hours at short notice when large orders come in, with little right to refuse
- In some cases, up to 15 hours worked per day at peak season with only break being one hour lunch
- No lunch break when there is a big order, yet this is when long hours are worked
- Excessive hours restricting time with family, including for recent mothers.

2.1.5 No discrimination is practised

- Supervisors taking bribes in exchange for promoting workers

- Discrimination against pregnant women by not giving them lighter tasks while pregnant or on return to work, with intent to discourage staying at work.

2.1.6 Regular employment is provided

- Some workers employed as casual workers for up to 10 years, with contract renewed monthly
- Temporary contracts for many workers, replaced at six-month intervals
- Maternity leave not paid, full entitlement often not granted.

2.1.7 No harsh or inhumane treatment is allowed

- Sexual harassment, cases of supervisors granting permanent status to those workers who will have sex with them
- Verbal abuse, especially by supervisors towards workers.

2.1.8 Other common complaints

- Restrictions on visitors to farms where workers live on site, including spouses, resulting in higher rates of sexually transmitted diseases and HIV/AIDS
- Where worker welfare committees exist, they are often powerless to make changes
- Lack of training for workers and for supervisors. Workers felt that supervisors were harsh as they were insecure and afraid to lose their jobs to others since they lacked training both for their own jobs and with regard to how to manage others.

During 2002, an international academic research project that included a case study in Kenya had found many of the same problems in the cut flower industry, as well as some recent improvements to labour standards². Journalists (from the British Broadcasting Corporation and the UK's Marie Claire magazine) had also heard similar information from workers they interviewed for media features in late 2002/early 2003.

2.2 Issues regarding social audits

It was clear from meetings with workers and from the KEWWO report that the labour standards abuses outlined above were not one-off incidents, but represented a pattern. In meetings, workers named the farms where they worked or had worked, and these included large farms in direct supply relationships with the UK, smaller farms selling onto those larger farms at peak season, as well as many who could not trace a supply relationship to a UK retailer.

Some of these farms had excellent reputations, and it was clear that improvements had been made in the flower industry over the preceding years. Environmental and social audits had been in place on many farms for a number of years. A number of organisations used social audits to assess labour standards on Kenyan flower farms. These included³:

- international environmental and social certifiers such as Milieu Programme Stiftung (MPS)
- membership organisations of local growers such as the Kenya Flower Council (KFC) and the Fresh Produce Exporters Association of Kenya (FPEAK)

² *Gender, Rights and Participation in the Kenya Cut Flower Industry* (2003) C. Dolan, M. Opondo and S. Smith, NRI Report No 2768, Chatham: University of Greenwich, <http://www.ids.ac.uk/ids/global/ETAH.html>

³ See glossary listing all Kenya stakeholders encountered by ETI, page 4.

- European organisations selling flowers with social and environmental labelling, such as Max Havelaar and the Flower Label Programme (FLP).

These organisations used different standards (most have their own Code of Conduct) and different social auditing methodologies. In some cases, the standard against which working conditions were being assessed did not contain all the elements of the International Labour Organisation's core labour standards. However, the main problem was not the standards against which farms were being measured, but the way in which farms were assessed.

Many organisations were using their own auditors. Others were using social auditors from international certification firms. Very few had established ongoing links with local trade unions and NGOs. None were using a participatory audit methodology. Many organisations were industry bodies with farms as members. The same body policing those farms lead to potential conflicts of interest, with little transparency or involvement of external, independent stakeholders.

The following problems with the existing auditing systems were evident from workers' testimonies and from discussions with industry bodies, auditors and growers themselves:

GENERAL

- Lack of code harmonisation with resultant duplication of work and costs for growers

WORKERS

- No awareness-raising with workers prior to audits: workers therefore unfamiliar with the nature and purpose of the audit, and any role for them in the audit process
- Workers unaware of their rights, and therefore whether or not they were being granted their entitlements
- Very few workers selected for worker interviews
- Workers interviewed in the presence of management
- Little contact between auditors and local trade union and NGO representatives
- Auditors shown only certain areas of farm or housing facilities
- Workers/work site prepared especially for the audit
- Only permanent workers interviewed, not those on seasonal or casual contracts
- Audits not conducted at peak season, when many of the worst problems arose
- Audit results not shared with worker representatives
- Workers not engaged in any follow-up action or implementation of recommendations after audits

AUDITORS

- Too few female auditors, when most of the workers were female
- Gender issues not sufficiently understood by auditors
- Use of overseas auditors who were unfamiliar with the local language or customs
- Use of auditors with technical or environmental rather than social qualifications

However, clearly not all of these issues applied all of the time. As a result of these problems, many of the issues outlined in Section 2.1 had failed to come to light despite repeated and costly social audits. Where issues remained unidentified, it was impossible for any remedial

actions to address such issues to take place. As a result, many workers felt that repeated social audits had not led to any improvements in their working conditions.

3. Establishing dialogue and a process for change

In response to these issues, those concerned both in Kenya and in the UK established or re-activated platforms for ongoing dialogue. In many cases, stakeholders had previously had only strained or antagonistic relationships. The creation of a safe space for ongoing dialogue was vital to ensure that these stakeholders could build a new form of working together to address issues and continue the successful growth and employment provided by the Kenyan flower industry. The two platforms that involved ETI are described in Sections 3.1 and 3.2 below.

There was also an industrial relations dialogue in Kenya between the Kenya Plantation and Agricultural Workers' Union (KPAWU) and industry bodies, most notably the Agricultural Employers' Association (AEA) and the Federation of Kenya Employers (FKE). A collective bargaining agreement (CBA) existed between the AEA and KPAWU that covered some flower farms. However, many farms had too few unionised workers to gain union recognition, and therefore workers on those farms were not covered by the CBA. This problem was exacerbated by the use of casual workers who were regrettably not union members. Neither Kenyan stakeholders, nor ETI members, nor the ETI Secretariat were able to build contact between the established Kenyan trade union industrial relations framework and the multi-stakeholder platform that developed in Kenya with which ETI became involved. That situation continues at the time of writing this report.

3.1 The Kenya Horticultural Ethical Business Initiative (HEBI)

Members of HEBI

Industry	Government
Fresh Produce Exporter Association of Kenya (FPEAK) Agricultural Employers' Association (AEA) Kenya Flower Council (KFC)	Ministry of Agriculture Ministry of Labour Ministry of Trade

In Kenya there had been intermittent dialogue between NGOs, government and industry since 2000, which had led to some improvements on farms, in particular on health and safety issues. However, the NGOs were not satisfied with the level of progress.

Following the international conference organised by Kenyan NGOs in Nairobi in May 2002 (see Section 1.1 above), a broader group of stakeholders had begun to meet together to discuss horticulture industry issues. In July 2002, a meeting was held between the Royal Netherlands Embassy (RNE), the KHRC and the British DFID. Other parties involved included the Agricultural Employers Association (AEA), the KFC and FPEAK, and a 'Steering Committee' made up of representatives of the different stakeholders was formed. However, at this stage, other members of the WRA were not included.

The meeting requested by the RNE in July 2002 had been in order to receive further information about the allegations made against the flower farms at the May conference, and to propose a common further investigation into the situation. This action had not progressed when the ETI delegation visited Kenya in November 2002. As part of the ETI delegation trip, a meeting was organised with the Steering Committee to hear about their work to date and see whether ETI members could make a useful contribution to their future plans. At this point representatives of all the members of the WRA became fully involved.

The delegation also attended a meeting at which all of the Steering Committee member organisations were present, as well as other interested parties such as audit firms. ETI members were able to clarify that no campaign had been conducted in the UK or elsewhere, and that ETI was in Kenya to lend support to efforts to address labour rights issues, sharing our experience on social auditing and code of conduct implementation. We were also able to outline our own multi-stakeholder structure and the nature of ETI as a learning organisation, not an accreditation agency.

The Steering Committee members' organisations later (in 2003) jointly registered as a separate body called the Horticultural Ethical Business Initiative (HEBI).

3.2 ETI role in HEBI

At that meeting of the industry stakeholders ETI members made clear that from their own visit to Kenya that week, they were in no doubt as to the validity of the claims made by workers. On return to the UK in late 2002, ETI's members undertook various actions in relation to establishing the multi-stakeholder dialogue that evolved into HEBI. ETI as an organisation also had a role to play in sharing our model of a safe space for stakeholders to work together, and the Secretariat has kept in contact with HEBI members since October 2002.

3.2.1 ETI's involvement in HEBI

As an organisation, ETI was accorded observer status on HEBI when it was formally constituted in 2003, alongside DFID, the RNE, Africa Now and MPS. This enabled ETI to attend meetings where possible and have access to meeting minutes and relevant documents. Although ETI's work on the Kenya flower industry was not an ETI experimental project, a project manager member of the Secretariat staff (Pins Brown) was tasked with managing ETI involvement and communication with HEBI. ETI was committed to facilitating the participation of members' suppliers, affiliates and partners in Kenya. ETI's own multi-stakeholder status also meant that we had lessons learned from our own development and projects that we wished to share with HEBI.

Alan Roberts, the ETI Chair at that time, took an active role in setting up the relationship between ETI, ETI members and HEBI. He visited Kenya in February 2003 to attend a Steering Committee meeting; meet with DFID and ETI members' suppliers; and with the leaders of KPAWU and the FKE to discuss their reluctance to joining HEBI.

In December 2002, ETI had agreed to fund a two-day introductory training course on participatory social auditing methods to take place in Nairobi in early 2003. ETI members had shared their experience from two experimental projects in improving labour standards in Zimbabwe and South Africa while visiting Kenya in November that year. All HEBI members were sent copies of the participatory social auditing manual produced by the Agricultural Ethics Assurance Association of Zimbabwe as a result of the ETI project there. HEBI

members had then requested training on participatory social auditing, the first stage of their planned activities. HEBI's further activities are documented in Section 4 below.

As a result, ETI put HEBI in touch with Diana Auret, a Zimbabwean ex-farmer and social anthropologist who had worked with ETI on developing and documenting a participatory social audit methodology in the Zimbabwe project. Ms Auret had also been involved in the academic research into gender, horticulture and codes of conduct mentioned on page 10 above, and was therefore familiar with the Kenyan flower industry. HEBI members drafted a terms of reference for a training course, and agreed that all HEBI members would be able to nominate a number of participants for the training course. ETI funded that training, which took place in February 2003.

3.2.2 ETI members' involvement in HEBI

Retailer members encouraged their suppliers to take a full part in ongoing dialogue in Kenya by participating in the fledgling multi-stakeholder dialogue. In practice this meant:

- encouraging suppliers to consider how best to address the list of workers' issues collectively through HEBI as well as established industrial relations frameworks
- ensuring that suppliers encouraged their industry bodies such as the KFC and the AEA to take an active role in HEBI
- ensuring that suppliers pressured their industry bodies to communicate effectively with them and keep them properly informed of developments, decisions taken and actions required.

ETI members were also keen to see the involvement of the Kenya Plantation and Agricultural Workers Union (KPAWU) in the multi-stakeholder body. ETI requested that HEBI members reiterate their invitation to KPAWU to join HEBI. ETI also asked HEBI members to ensure that the Kenyan trade unions were aware of the presence of three seats on the HEBI Board specifically set aside for trade unions when HEBI was legally constituted in 2003. ETI also sought to use the good offices of its Board member from the International Union of Food and Agricultural Workers (IUF) to gain involvement of KPAWU in HEBI in December 2002 and September 2003, but with no success.

Two ETI NGO members were also involved throughout the period covered by this report, November 2003 – December 2004. WWW continued to support KEWWO's participation in HEBI. A UK-based ETI NGO member called Africa Now also became involved owing to their work in this area and African focus, and since they had a local office in Nairobi. Africa Now was granted observer status on HEBI and attended HEBI meetings. The Africa Now Kenya Country Director, Robert Hale, helped to set up an email group listing which enabled HEBI members to communicate transparently and access correspondence easily.

3.3 ETI Flower Forum⁴

On returning from Kenya at the end of 2002, it was also clear to ETI members that change and dialogue was also necessary at a UK level. Stakeholders in Kenya had mentioned various issues between retailers and suppliers that have an impact on labour standards on Kenyan flower farms. Furthermore, retailers were now acutely aware that some of the social auditing procedures they were either conducting or commissioning were not reliable. NGO and union

⁴ Members of the ETI Flower Forum were: Africa Now, Asda, Fairtrade Foundation, Flamingo Holdings, International Union of Foodworkers, Lingarden, Marks & Spencer, Oxfam, Sainsburys, Somerfield Stores Ltd, Tesco, The Co-operative Group (CWS) Ltd, Traidcraft Exchange, Women Working Worldwide, World Flowers.

members also wanted the opportunity to meet regularly with retailers in order to address issues and feedback progress to their partners. Members requested an ongoing platform to:

- discuss and address issues existing at the market end as well as supply side of the supply chain
- share information from horticulture supply chains in Kenya and elsewhere
- share good practice

As a result, the ETI Flower Forum was established in April 2003, enabling members to meet approximately every five months, and to share information in an email group listing. During the course of the Forum's existence, three new ETI members supplying flowers and plants (World Flowers, Flamingo Holdings, Lingarden) joined the Group. In December 2004, the Flower Forum ceased to meet separately and has been integrated into the ETI Food Group, a quarterly meeting of members supplying and retailing food and fresh produce.

3.4 Other stakeholders

Many members already had links with various organisations and certification bodies working in the horticulture industry in Kenya whose work included labour standards issues in some way. The November 2002 visit to Kenya had shown members that it would be useful to share the information we had gathered about workers issues and problems regarding social auditing with these organisations. Therefore ETI also sought to engage in dialogue with other international stakeholders in the flower industry. This involved two meetings with the Commercial and Agricultural Attachés at the Kenya High Commission in London. Furthermore, there was in-depth contact with EUREPGAP and the International Flower Co-ordination members during 2003/04. That engagement is listed in Appendix 1, page 22.

4. Progress achieved

As mentioned above, the simple fact of establishing meaningful, productive dialogue both in Kenya and the UK was a major achievement by all players, though the absence of trade unions from the multi-stakeholder work in Kenya remained. Throughout 2003 and 2004, the challenge for HEBI and others was to turn discussion into concrete action. The sections below describe activities undertaken by HEBI members in Kenya and ETI members in the UK between November 2002 and December 2004.

4.1 HEBI work to date and future plans

HEBI was given the following mandate by its stakeholders in November 2002:

- harmonise stakeholder interests and involvement
- ensure that the flower industry continuously improves the social conditions on the farms through positive engagement with all industry stakeholders
- develop a credible and participatory social audit system acceptable to all stakeholders including buyer markets
- use the developed social audit framework to establish the actual situation on the ground and report back to the stakeholders
- develop detailed terms of reference for the audit of flower farms
- raise funds to finance the audit process
- appoint and contract independent auditors

- approve the criteria to be used in selecting the sample of farms to be audited
- approve the audit process and related costs as proposed by the independent auditor
- guide, lead and manage the audit process
- ensure maintenance of constructive dialogue.

The central specific action agreed was to organise audits of a random sample of flower farms in Kenya in order to establish the situation with regard to labour standards in the industry, and then to oversee corrective action.

4.1.1 Sample of farms undergo participatory social auditing, October 2003

During 2003, the Steering Committee representing NGO, government and industry stakeholders proceeded with those actions. First of all, they registered as a legal entity and later set up a bank account through which to process funds and costs. They raised funds from DFID and the RNE to finance the planned social audits, and from ETI to pay for further training on participatory social auditing. A two-day introductory course on participatory auditing had been completed in February 2003 as detailed in Section 3.2.2 above. In July 2003, HEBI commissioned Diana Auret to conduct a further one-week course for social auditors, again for staff of HEBI stakeholder organisation members.

Between March and October 2003, the Steering Committee agreed terms of reference for social audits of farms, confidentiality agreements and criteria for selecting the sample of farms to be audited. Steering Committee members also worked extensively on developing a HEBI Code, which would cover all international ILO standards, with additional material specific to the Kenyan context. This standard and consequent audit checklist were used for the HEBI social audits. HEBI members then agreed an awareness-creation process to be conducted with management and workers on farms to be audited, in order to prepare both groups on the aims and process of a social audit.

Ten farms with differing characteristics (eg on size, location and ownership) were selected for auditing in September 2003. HEBI commissioned Diana Auret, assisted by those who had undertaken participatory social audit training in February and July 2003, to conduct these audits. By the end of October, eight farms had completed a full participatory social audit, one only completed half an audit owing to auditors' time constraints and one audit was cancelled. These pilot audits enabled participants to assess labour standards on these farms, as well as test the standard, tools and audit methodology which HEBI had developed.

4.1.2 Maintaining dialogue and building partnership

Apart from these concrete activities on developing standards and conducting social audits, Steering Committee members also engaged in softer activities. Following a change in the Kenya Government for the first time in decades at the very end of 2002, it had been necessary to build contacts with some new government representatives during 2003. While civil servant representatives of the Ministries of Trade & Industry, Agriculture and Labour were themselves present on the Steering Committee, the Committee deemed it vital to ensure the buy-in of the Minister of Agriculture. The Minister was briefed in November 2003 and kept abreast of HEBI's aims and activities. Consultative meetings were also held with other relevant Government of Kenya departments and with ETI, the ICC and the East Africa Representative of the IUF.

4.1.3 Results of audits shared and future plans agreed, January 2004

In January 2004, a meeting of over 100 participants from all HEBI member categories was held in Nairobi. This meeting aimed to report back to the stakeholders on HEBI's work during 2003 and on the results of the pilot social audits. The Agenda included discussion on HEBI's work to date, space for comments from stakeholders and group sessions to agree recommendations for all stakeholders and a new workplan for HEBI. It was funded by ETI, which was represented by Alan Roberts.

FINDINGS FROM THE PILOT AUDITS

At the workshop, anonymised findings from the pilot audits were reported to all stakeholders, highlighting positive practices, areas of concern and lessons learned from the development of the HEBI Code and auditing tools. Areas of concern were very similar to those heard by ETI members in November 2002. They included excessive overtime during peak periods; maternity issues; inadequate emergency response procedures; poor discipline and grievance handling procedures; ineffective communication channels; inadequate health and sanitation facilities; congested workers' houses; low union membership; barriers to freedom of association and poor worker knowledge about basic labour laws and standards. There were also instances of positive practices for example on higher than average wages; regular work; acceptable working hours; no child labour; existence of gender and welfare committees and good medical care.

BENEFITS TO INDUSTRY AND WORKERS OF THE WORK OF HEBI

The benefits of the work of HEBI to date were made clear. These included:

- increased awareness of the importance of social codes among stakeholders
- enabling some farms to take corrective action on social conditions as part of the audit process
- creating a forum for all industry players to address a common problem
- immediate reduction in adverse publicity on the Kenya flower sector.

LESSONS LEARNED REGARDING THE DEVELOPMENT OF HEBI CODE, TOOLS AND METHODOLOGY

Lessons learned from the development of the draft HEBI Code as well as audit tools and methodology included the following:

- participatory methods create confidence in the audit process
- awareness creation before social audits is essential for a good social audit system
- social audits should aim to continuously improve the social conditions on the farm, rather than focus solely on compliance. This approach generates more objective information during the audit process.
- involvement of local auditors introduced benefits associated with the knowledge of industry, language and culture. There is need to train more local auditors who understand local laws and culture.
- involvement of all stakeholders in the social audit process, including civil society, is important in building confidence and generating ownership and acceptance of the audit findings, as well as in developing and managing social codes.
- at least 50 per cent of auditors should be female since most workers in the industry are female
- a common code reduces the cost of compliance to both growers and exporters.

ADDITIONAL MANDATE AGREED

Finally, participants made recommendations for action and drafted an additional mandate for HEBI which involved:

- facilitating the process of adopting the draft HEBI Code
- strengthening and further developing the adoption of the participatory audit methodology across the flower industry
- promoting the code and audit methodology both locally and internationally
- facilitating the process of the formation of an independent association of social auditors.
- creating awareness and education to the general public, workers and management on the code and labour laws
- conducting social audits in the remaining flower farms in Kenya
- engaging all stakeholders in the creation of the national statutory body
- establishing a secretariat and mechanism to operationalise HEBI's mandate.

4.1.4 Activities under the new mandate, March - December 2004

In March 2004, the Steering Committee distributed a report of the January workshop to all participants. They then developed a strategy for HEBI covering the period from March - December 2004. This strategy broke down the additional mandate into specific actions to be conducted by different Steering Committee members.

Progress with these actions in 2004 was slow. Steering Committee members all held full time jobs in their own organisations, and time devoted to HEBI activities was necessarily limited, especially following the level of work undertaken in 2003. The Steering Committee also had to deal with governance issues concerning membership of the HEBI Board of Directors, following changes of personnel in HEBI member organisations.

It became clear that there was an urgent need to put a Secretariat in place in order to initiate and co-ordinate all the other planned activities. In October 2004, the Steering Committee (with the help of DFID) had successfully procured office space and facilities for HEBI as well as recruiting a secretariat constituting a project manager, office manager and office assistant. Accounts of HEBI's income and expenditure were also produced.

By November 2004, the Steering Committee had agreed on the following priorities:

- revise the HEBI code and audit methodology according to the comments received at the Stakeholder Workshop in January 04
- conduct training:
 - on creating awareness/offering education to the farm managers and their workers
 - for social auditors
 - for future trainers of additional social auditors
- conduct further social audits on flower farms
- produce information on HEBI in various formats, namely a website and printed brochure
- market HEBI using these communications materials.

The HEBI Secretariat and Steering Committee are now commencing these activities in 2005. Further information can be obtained from the HEBI Project Manager.⁵

4.2 ETI company members' changing practices

Significant progress and changed practices also took place at a UK level, following the establishment of a platform for dialogue and improved communication with industry stakeholders in Kenya. Visiting farms and talking directly to workers and others in the industry had a major impact on those who visited Kenya with ETI in November 2002. This same impact was felt by other retailer staff who visited Kenya independently in the coming months in the light of the information shared on the delegation's return.

ETI's work on flowers increased company members' understanding of and motivation to address the challenges of labour standards implementation in the horticultural industry. This led company members to take a number of actions:

- involve suppliers more directly
- assess the impact of retailers' own buying practices
- carry out increased social auditing
- use different auditing methods including shadowing
- train horticulture buying and technical teams on the impact of their decisions on suppliers and workers
- ensure that initial steps were taken to consider the situation in other flower supply chains outside Kenya, notably the other main supplier country, Colombia.

In one case, retailer members also worked extensively with their Kenyan flower supplier and the Fairtrade Foundation to introduce certified fair trade flowers from a large Kenyan farm under the Fairtrade Labelling Organisation's hired labour standard. These went on sale in March 2004.

With regard to Colombia, ETI company members set up their own informal group in late 2003 (outside the remit of ETI) to jointly consider labour standards issues there. They jointly commissioned and paid for eight audits of the main farms supplying them. They also started a dialogue with ASOCOLFLORES (Asociación Colombiana de Exportadores de Flores), the Colombian flower growers' industry association. This culminated in a visit by ASOCOLFLORES staff to an ETI Flower Forum meeting in October 2004. That meeting allowed ASOCOLFLORES and ETI to share information about experience, approaches and work on labour standards in Colombia and Kenya to date. ETI and members now remain in touch with ASOCOLFLORES and in particular their environmental and social programme called FLORVERDE.⁶ FLORVERDE is now revising its social code to include elements such as freedom of association.

The most significant areas of progress with regard to ETI members are outlined in sections 4.2.1 and 4.2.2 below.

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⁶ See www.asocolflores.org/info/info_florverde_ingles.php for further details.

4.2.1 Increased direct involvement of suppliers

Many retailer members encouraged their major flower suppliers to join ETI as the most effective way of learning how to address these issues in the long term. World Flowers, Flamingo Holdings and Lingarden all joined ETI as new members during 2003/2004. All three actively participated in the ETI Flower Forum, and all three ensured that particular staff members tackled relevant issues within their own organisation. Two have subsequently recruited staff in Kenya to manage labour standards issues and code of conduct implementation and corrective actions. All three companies testify that this has led to strong improvements in how they understand and tackle labour issues in across their supply chains, not just in Kenya, but also further afield in Africa, Latin America and even in the UK.

4.2.2 Changes to retailer buying practices

Supplier membership also raised the level of discussion in Flower Forum meetings since suppliers were able to raise issues with retailers where retailer behaviour has implications for labour standards. Some retailers ensured that their buying and technical teams were properly briefed on problems facing suppliers and workers in horticulture supply chains to ensure that all team members took account of the implications of their decisions.

Times of peak production such as Valentine's Day, Easter, Christmas and Mother's Day had been shown to be challenges to labour management, with problems of overtime in particular. Supermarket short-term ordering made it difficult for suppliers to predict how many workers would be required at such times. Some suppliers were able to negotiate with their retailers on this. In some cases, this led to changes in ordering procedures and a move to fixing volumes at such times. This enabled suppliers to plan staff requirements, hire and train additional staff if necessary and allowed workers to advise management in advance if they did not want to work the predicted overtime hours.

4.3 Changes for workers

The most important measure of progress achieved is that felt by some workers on the ground in Kenya, who had raised the initial complaints. Improvements in the practices of ETI retailer and supplier members have demonstrably translated into change for the better for some flower farm workers supplying ETI company members. These positive changes have included:

- phasing out of casual contracts and provision of contract information in Kiswahili
- clearer information on pay-slips
- introduction of opt-out system for overtime
- extension of medical facilities
- improvements to housing provided
- increased maternity leave and crèche facilities
- increased supervisory roles for women
- new PPE and stricter controls on pesticide spraying
- increased training on use of PPE
- increased numbers of and improvements to showers and toilets
- increased provision of potable water and signage to potable water
- improved transportation for workers
- improved or newly established worker welfare and gender committees, increased organisation of workers

One of the most meaningful, sustainable improvements is that on some farms these and other factors have since led to significant increases in trade union membership, with resulting recognition and collective bargaining agreements between workers and management.

At the same time, it must be noted that several factors have led to these improvements, and that there is still much work to be done including on important issues such as wages. Some farms have had more previous experience in handling labour standards issues and been better equipped and resourced to respond to demands for change than others. The industry is working hard to ensure that improvements are implemented nationally and can be felt by all workers. The role of the Kenyan government, trade unions, all HEBI stakeholders and others in ensuring continuous improvement will be vital.

5. Conclusion

In conclusion, ETI members' work to address labour standards on flower farms in Kenya has yielded much useful learning, especially for the members involved. This was despite the fact that the work was not an ETI project with a defined project plan, but instead a response to a complaint received by members about labour standards violations in their supply chain. It has clearly indicated the value of effective multi-stakeholder groups and audits, and the need for sustained mechanisms for change. It has also played a part in improving labour standards for workers on Kenyan flower farms supplying ETI members. Others sourcing flowers from Kenya and elsewhere should be able to benefit from the information contained in this report.

Company members have already taken the initiative in sharing this learning with contacts in the Colombia flower industry in particular. NGO members are also applying lessons learned. In one case this involves work with women workers in flower and vegetable industries in other sub-Saharan African countries, in another applying learning about social auditing techniques. The need for strong trade union participation in such work remains paramount. We hope that HEBI stakeholders in Kenya are able to engage more successfully with trade unions in future.

We hope that this report fulfils ETI's aim of generating good practice on the implementation of codes of conduct, and sharing that good practice with relevant parties.

Appendix 1: Engagement with EUREPGAP and IFC

EUREPGAP

Many ETI retailer members sought EUREPGAP⁷ certification of good agricultural practice by those supplying their flowers. EUREPGAP members have produced a set of standards on good agricultural practice for horticulture producers through the work of the EUREPGAP Flowers Technical Standards Committee. ETI members who were also part of that EUREPGAP Committee informed other ETI members that the Committee was considering expanding the worker welfare section of the flowers protocol (the horticulture standard).

ETI members were concerned that expanding social criteria in a technical EUREPGAP audit conducted by technical auditors would only serve to further confuse producers and produce misleading information on social standards on farms audited against EUREPGAP. ETI members and Secretariat staff therefore attended a meeting of the EUREPGAP Flowers Technical Standards Committee in April 2003 and explained their experience in Kenya and their views and concerns about the potential revision to the EUREPGAP flowers protocol. As a result, the Committee agreed not to expand the section on worker welfare.

International Flower Co-ordination (IFC) and Flower Label Program (FLP)

The IFC is a network of European NGOs and trade unions working on flower issues, and more specifically on socially acceptable flowers being exported to European supermarkets. Its members include NGOs and trade unions based in Germany, Holland and Switzerland, as well as the IUF. The IFC members have been working together since the mid 1990s, and they jointly drafted the International Code of Conduct for Cut Flowers (ICC) in 1999. This code is almost identical to the ETI Base Code.⁸

In 1999, German NGOs working together and the German agricultural union (IGBAU) signed an agreement with importers and florists known as the Flower Label Program (FLP)⁹. Flower farms anywhere in the world can apply to have their farms inspected by independent social and environmental auditors and become FLP members, provided they comply with the ICC. Once accepted as members, the flower farms receive the FLP certificate and have the right to market their flowers under the FLP label. A number of Kenyan flower farms are FLP members, and workers met by the ETI delegation in November 2002 included workers from FLP-certified farms.

ETI was able to get in touch with the IFC and FLP through our members WWW and the IUF. A relationship was established when the ETI Project Manager attended an IFC meeting in March 2003 in order to share issues raised by workers and others with ETI in Kenya. Following this meeting, IFC members shared resources and information on their activities with ETI. These included a version of the International Code of Conduct on Cut Flowers in Kiswahili, as well as copies of a training manual for workers in the cut flower industry. These were circulated to ETI members and to HEBI members in Kenya in May 2003. ETI continues to be in contact with IFC members, in particular the FLP.

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⁷ See glossary, page 4.

⁸ See www.flowercampaign.org/english/prod/code.htm

⁹ See www.flower-label-program.org