

Standards and Market Access

Opportunities and Challenges for East African Exports into European Union



Civil Society Perspectives Based on Multi-Stakeholder Discussions and Findings of a Research Study on: "Standards and Market Access under EPAs: Implications and way forward for EAC", Implemented by CUTS Africa Resource Centre, Nairobi

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Preface

After the BSE crisis and several other food scandals of the 1990s, the European Union (EU) became more pro-active on matters of food safety leading to radical revision of the Union's food safety policy. The new policy adapted an integrated approach on food safety (**from farm to fork**), which encompasses *traceability* –as the basic principle; *transparency*; *risk analysis* and *risk assessment*, and *precautionary principle*. It lays the primary responsibility of food safety on food distributors. This forced food distributors to pass forward the responsibility on their suppliers for the safety of their products by demanding adherence to *good agricultural practices* and *certification of suppliers*. Henceforth, they would not accept supplies from importers who cannot guarantee the traceability and food safety of their consignment. In that vein, importers too sought to lay the responsibility on their suppliers, and the suppliers have done the same to producers/farmers. In the end, this chain of reactions has raised the costs for countries and producers exporting to EO and it ended locking out many small-scale farmers who wish to serve the EU market but lack capital and the expertise to practice 'good agricultural practices' and pay for certification.

The point of this Position Paper is, therefore, that regardless of the duty-free-quota-free access granted to East African Community (EAC) Partner States under the economic partnership agreement (EPA) with the EU, entry of products into the EU market is entirely dependent on the products complying with the prevailing EU market standards. Given that, the important question that remains is, "What is the future of small-scale farmers' development considering the challenges they face to produce competitively, comply with stringent standards and connect with a dynamic EU market"?. This is the fundamental research question that CUTS ARC, Nairobi sought to address through a study titled: "Standards and Market Access Under EPAs: Implications and Way Forward for EAC" (the research paper is available at [http://www.cuts-grc.org/pdf/BIEAC-Standards and Market Access Under EPAs.pdf](http://www.cuts-grc.org/pdf/BIEAC-Standards%20and%20Market%20Access%20Under%20EPAs.pdf)), which is one of the researches undertaken under its BIEAC (Building an Inclusive East African Community) project.

The BIEAC project was funded by the German Government via GTZ and implemented by CUTS in all the five EAC Partner States: Burundi, Kenya, Rwanda, Tanzania and Uganda over the two years, 2008-2010. The project was initiated to empower civil society organisations (CSOs) in the

EAC region to participate proactively, engage and help in the identification of challenges and opportunities posed by both the external and internal integration processes involving the EAC, such as the internal EAC integration and integration with the EU under the EPA agreement and integration with COMESA and SADC under the Tripartite arrangement between the three economic blocs.

This Position Paper highlights the fact that while compliance with the WTO's stipulated Technical Barriers to Trade (TBT) and Sanitary and Phyto-sanitary (SPS) Measures is vital for trade, the stringent steps many WTO member countries have adopted in formulating their own standards, coupled with an increasing range of private sector standards, have led to many exports from developing countries being rejected due to SPS (food safety) non-compliance; the worth of the rejections have been estimated to more than surplus what the donors spend in these countries on SPS support. Of main concern to EAC is the stringency of the European standards regime on food safety and agricultural trade considering first that the EU is the leading importer of EAC agricultural products and secondly the low capacities of small-scale farmers in EAC. The Paper presents some of the options for smallholder farmers to raise their standards; measures that civil society organisations in EAC think must be taken within the EPA arrangement to promote the developmental objectives of standards while limiting their portentials as trade barriers.

The positions contained in this Paper have been developed through multi-stakeholder engagements involving the government, private sector, civil society, research institutions, farmers and various donor agencies. In the end, the main target of this Position Paper is policy attention and, possibly, policy change. So it will be imperative that the trade negotiators including the EAC Secretariat take account of the issues and recommendations raised here and incorporate them in the present EPA negotiations and/or in future when there will be a need to review the terms of EPA to make it development-fireindly for small-scale farmers.

**Nairobi,
December 2009**

**Clement V. Onyango
Director, CUTS-ARC, Nairobi**

Abbreviations and Acronyms

BIEAC	Building an Inclusive East Africa Community
BRC	British Retail Consortium
BSE	Bovine Spongiform Encephalopathy
CA	Competent Authority
CSO	Civil Society Organisation
CUTS	Consumer Unity and Trust Society
DFQF	Duty-Free and Quota-Free
EAC	East African Community
EC	European Commission
EPA	Economic Partnership Agreement
EPZ	Export Processing Zone
EU	European Union
FAO	Food and Agriculture Organization of the United Nations
FAO	food of animal origin
FDI	Foreign Direct Investment
FEPA	Framework Economic Partnership Agreement
FPEAK	Fresh Produce Exporters Association of Kenya
FTA	Free Trade Area
FVO	Food and Veterinary Office
GAP	Good Agricultural Practices
GDP	Gross Domestic Product
GTZ	German Agency for Development Co-operation
HACCP	Hazard Analysis and Critical Control Point
IFS	International Food Standard
IIED	International Institute for Environment and Development
IOE	World Organisation for Animal Health
IPPC	International Plant Protection Convention
ISO	International Organization for Standardization)
ISS	International Institute of Social Studies
MRL	Maximum Residue Limits
NRI	Natural Resources Institute
QCD	Quality, Cost, and Delivery
SA 8000	Social Accountability Standard
SPS	Sanitary and Phyto-sanitary
TBT	Technical Barriers to Trade
UK	United Kingdom
UNIDO	United Nations Industrial Development Organization
WHO	World Health Organisation
WTO	World Trade Organisation

Introduction

Since January 2008, access for East African Community (EAC) exports to the European Union (EU) market is being conducted within the trade provisions of the Framework Economic Partnership Agreement (FEPA). The FEPA was agreed between the EAC and the European Commission (EC) in November 2007 in which the EU committed to providing duty-free and quota-free (DFQF) market access to all goods imported from EAC while EAC undertook to reciprocate the same to 82 percent of EU goods imported into its regional market.

In this new dispensation that may seem to have opened up the EU market for EAC products, there are several concerns regarding the future penetrability of the EU market. Firstly is the issue of the relevance of the value of the DFQF market access for EAC agricultural exports considering that under the EU's 'New Trade Strategy, 2006', the EU is keen on concluding a range of 'ambitious' free-trade-area (FTA) agreements with advanced developing countries, granting them the same market entry conditions as to EAC. This will certainly erode the preferential margins most EAC agricultural exporters have traditionally enjoyed, thus lowering their competitiveness in the EU market and serving to reduce the benefits that EAC countries could otherwise derive from the EPAs.

The second concern is that, although the EU has provided DFQF entry into its market for all agricultural exports of EAC, there are an increasing range and varieties of product and process standards and technical regulations that will make the EU market offers unworkable for EAC. In practice, the primary reason within the WTO SPS and TBT Agreements for the application internationally of standards and technical regulations (whether for products, labour, or for the environment) should be to mitigate against health and environmental risks, prevent deceptive practices, reduce transaction costs in business by providing common reference points for notions of 'quality', 'safety', 'authenticity', 'good practice', and 'sustainability' and thus enhance the competitive position of countries or individual firms.

Many studies have revealed that EU standards regulations are increasingly being applied with punitive intentions to block exports from

other countries. The growing concern among policy-makers and private entities in EAC developing countries is about the proliferation and strengthening of food safety and agricultural standards in the EU market and how this is impacting upon their competitiveness. This concern is multi-faceted, involving:

- the suspicion that important standards can and will be used as a trade protection measure and be applied in a discriminatory manner;
- the concern that EAC governments, traders and producers lack the administrative, technical and other capacities to comply with the emerging standards requirements in the EU, or that even in the few cases where they are able to comply, the costs incurred to attain compliance certainly undermines their comparative advantage; and,
- the proposition that such institutional weaknesses and rising compliance costs only serve to marginalise weaker economic players, including small countries, small enterprises, and small-scale farmers.

This Position Paper highlights the fact that while compliance with the WTO's stipulated Technical Barriers to Trade (TBT) and Sanitary and Phyto-sanitary (SPS) Measures is vital for trade, the stringent steps many WTO member countries have adopted in formulating their own standards, coupled with an increasing range of even more stricter private sector standards, have led to many exports from developing countries being rejected due to SPS (food safety) non-compliance; the worth of the rejections have been estimated to more than surplus what the donors spend in these countries on SPS support. Of main concern to EAC is the stringency of the European standards regime on food safety and agricultural trade considering first that the EU is the leading importer of EAC agricultural products and secondly the low capacities of small-scale farmers in EAC.

Secondly, the Paper presents some of the options for smallholder farmers to raise their standards; measures that civil society organisations in EAC think must be taken within the EPA arrangement to promote the developmental objectives of standards while limiting their portentials as trade barriers.

Thirdly, it underscores the point that more inclusive agricultural programmes that brings on board full inclusion of traders from EAC and producers, particularly, small-scale farmers who form the bedrock of EAC agricultural systems, will create national ownership and domestic buy-in for the eventual economic partnership agreement (EPA) with the EU and thus facilitate its implementation to achieve its intended objectives of poverty reduction, regional integartion and sustainable development.

The positions contained in this Paper have been developed through multi-stakeholder engagements involving representatives from the government, private sector, civil society, research institutions, farmers and various donor agencies. The purpose of this Position Paper is, therefore, to convey these perspectives to the policy makers and the trade negotiators within the EAC in order to consider the crucial role played by small-scale farmers and the need for their beneficial inclusion in the high-value markets on a sustainable basis.

In the end, the main target of this Position Paper is policy attention and, possibly, policy change. So it will be imperative that the trade negotiators including the EAC Secretariat take account of the issues and recommendations raised here and incorporate them in the present EPA negotiations and/or in future when there will be a need to review the terms of EPA to make it development-friendly for small-scale farmers.

[2]

EAC Agriculture Trade with the EU and Importance of Compliance with Standards

2.1 Importance of Agricultural Trade to EAC Countries

In the East Africa Community (EAC), the size and prominence of agriculture in growth and poverty reduction makes agriculture a focal point for development. Agriculture continues to be the backbone of EAC economies considering its contribution to GDP, exports and merchandise trade, national employment, and government revenue (see tables 2.1, 2.2, 2.3, 2.4, and 2.5). The sector is estimated to have a further significant indirect contribution to these economies through linkages with manufacturing, distribution, and other service related sectors. Agriculture's prominence is further highlighted by the fact that it has large spin-off effects on the non-farm sector, mainly through forward linkages to agroprocessing and consumption.

Table 2.1: Contribution of Agriculture to EAC Economies

Variables (share of)	Level of Contribution (%)		
	Kenya	Tanzania	Uganda
GDP	24	40	22
Net Exports	60	85	
Gov't Revenue	45		
Labour force	75	80	82

Table 2.2: Percentage Composition of Exports 2001-2007 Kenya

	2001	2002	2003	2004	2005	2006	2007
Horticulture	13.63	16.74	19.92	18.41	17.71	19.45	20.66
Tea	23.67	20.31	18.02	16.79	17.04	18.86	17.03
Textile	0.41	0.42	0.58	0.59	5.71	6.60	5.89
Coffee	5.12	3.86	3.43	3.23	3.48	3.64	3.80
Tobacco and Tobacco manufactures	1.98	2.04	1.63	1.37	1.97	3.14	3.11

Source: CUTS, 2009

Table 2.3: Value (000 US\$) and Volume (MT) of Ugandan Exports 2002-2007							
		2002	2003	2004	2005	2006	2007
Coffee	<i>Value</i>	96,626	100,233	124,237	172,942	189,830	265,853
	<i>Vol.</i>	201,591	146,299	159,983	142,513	126,887	164,540
Cotton	<i>Value</i>	9,519	17,755	42,758	28,821	20,474	19,571
	<i>Vol.</i>	12,322	16,762	29,293	30,403	18,480	16,230
Tea	<i>Value</i>	31,293	38,314	37,258	34,274	50,873	47,629
	<i>Vol.</i>	30,400	36,669	36,874	36,532	30,584	44,015
Tobacco	<i>Value</i>	45,262	43,042	40,702	31,482	26,964	66,301
	<i>Vol.</i>	23,266	24,669	27,843	23,730	15,794	26,384
Fish & Fish products	<i>Value</i>	87,945	88,113	103,309	142,691	145,837	124,711
	<i>Vol.</i>	25,525	26,422	31,808	39,201	36,461	31,681
Roses and cuts flowers	<i>Value</i>	17,828	22,080	26,424	24,128	20,987	22,782
	<i>Vol.</i>	4,504	5,636	6,092	6,162	4,989	5,267
Fruits	<i>Value</i>	670	436	917	1,158	1,167	1,976
	<i>Vol.</i>	708	425	1,297	3,061	7,821	7,361
Cattle hides	<i>Value</i>	9,810	4,925	5,409	7,064	8,032	18,114
	<i>Vol.</i>	20,049	18,565	18,502	25,349	22,214	20,942

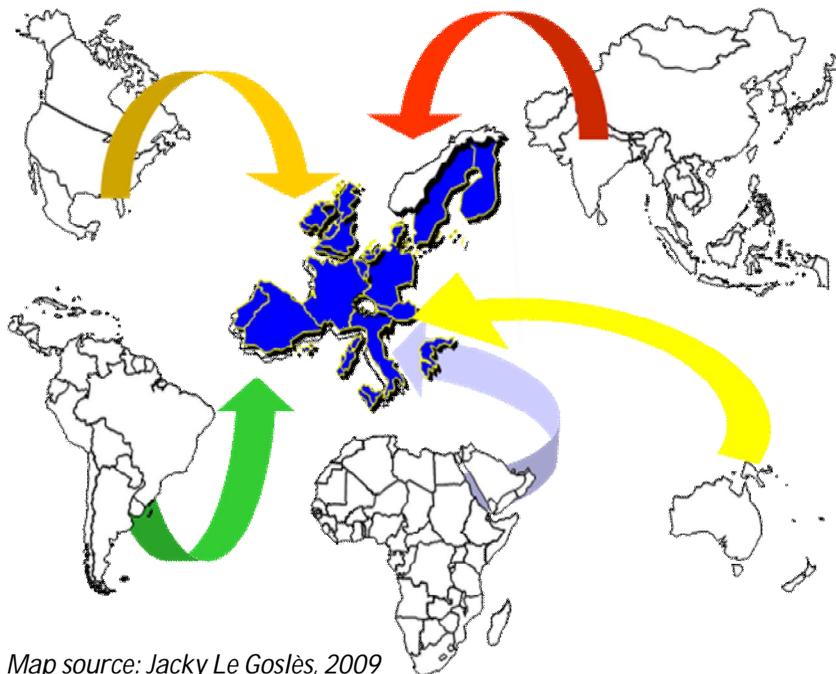
Source: CUTS, 2009

Table 2.4: Tanzania's Major Exports Over Time (million US\$)								
Product	2000	2001	2002	2003	2004	2005	2006	2007
Cotton	38	33.7	28.63	41.3	74.6	111.5	55.8	66.4
Sisal	5.6	6.7	6.55	6.8	7.2	7.3	6.1	6.8
Tea	32.7	29	29.6	25	30.1	25.6	31	28.7
Tobacco	38.4	35.7	55.52	46	57.6	80.8	65.2	72.9
Cashew nuts	84.4	56.6	46.59	44.2	68.1	46.6	30.4	13.2
Cloves	10	12.3	3.96	10.3	10.3	8.5	8.2	4.2
Total	292.8	231.1	206.07	223.4	297.7	354.6	258.1	192.2

Source: CUTS, 2009

22 EAC Agricultural Trade with the EU

The European Union is the world's largest importer of agricultural and fishery products. It is the principal importer of agricultural exports from East Africa.



Map source: Jacky Le Goslès, 2009

The leading EU destinations for Kenyan flowers are the Netherlands, Germany, Sweden, Switzerland and the UK. Fruits and vegetables are mainly imported into the UK, Germany, the Netherlands, Belgium, and France, with the UK leading in importation of Asian Vegetables while France in French Beans and mangoes. In 2007, Kenya supplied 30% and 25% of the EU market for green beans and cut flowers respectively. Worthy of mention also is the fact that Kenya is the fourth largest exporter of avocado to the EU after Israel, Mexico and South Africa and France being the leading importer. In addition, the Middle East market including Saudi Arabia, South Africa, Seychelles and Italy have become an important outlet for Kenyan fruits and vegetables.

In Uganda fish is the main export to the EU followed by coffee and most recently also roses and cut flowers are increasingly becoming an

important commodity in the Ugandan export basket. While, in Tanzania food exports to the EU in 2008 accounted for 70% of the country's total exports to Europe, with the main exports being tea, cashew nuts and cloves. Rwanda and Burundi enjoy preferential treatment in the EU and mainly export tea and coffee which comprise 70 percent of their exports. Horticulture is considered a priority sector with great potential especially in Uganda, Rwanda and Burundi.

Table 2.5: Main EAC exports to the EU by Country and Commodity (2007)

Country	Commodity Exports as % of Total Exports			
	Coffee	Tea	Horticulture	Fish
Kenya	3.8%	17.03%	20.66%	1.5%
Tanzania	20.8%	11.3%	Potential	25.7%
Uganda	23%	4.2%	2.1%	10.8%
Rwanda	70%	5.9%	Potential	-
Burundi	73.3 %	7.0 %	Potential	-

Source: CUTS, 2009

2.3 Dominance of Small-scale Farmers in EAC Agricultural Production

Farming in the EAC is typically practiced in small holdings¹. The typical cash crops produced in EAC are coffee, tea, sisal, cotton, pyrethrum, cane sugar, horticultural crops (non-consumable and consumable), oil-crops, cloves, tobacco, coconut, cashew nuts, and annatto (*Bixa orellana*, from which a natural food coloring agent is extracted). Some of the horticultural crops grown in the region include: Asian/Indian vegetables (such as Karella, Brinjals, Chilies, Okra, etc that originated from India); other vegetables (tomatoes, kale, cabbages, onions, French beans, Garden beans, sweet pepper, cowpeas, sweet corn, carrots, Irish potatoes, sweet potatoes, traditional vegetable); and fruits (oranges, mangoes, papaws, citrus fruits).

¹ In this Position Paper, we use the term “smallholder or small-scale farmers” to mean producers whose scale of operation is too small to maintain a position in the market individually unless they operate in a group of comparable producers, bulking their produce in order to strengthen their position.

In Kenya, there are over 600,000 smallholder *coffee* farmers whose production account for 60% of national production (Coffee Board of Kenya, 2005); and, an estimated 400,000 small growers of tea whose production account for 62% of the tea production (EPZ, 2005). In the *livestock and dairy* sub-sector, the dominance of smallholders is clear in the rearing of cattle, sheep, goats, and camels, mainly for meat and milk production and for hides and skins for export and industrial processing; and, pigs and poultry for white meat and eggs respectively. Pastoral production supplies 90% of the meat in Kenya (IIED, 2008), and smallscale milk producers –estimated at 1.8 million households –produce more than 80% of all the milk marketed in the country (ILRI, 2007), over 4.6 billion litres annually (Kenya Dairy Board, 2009).

Likewise for the *horticulture*, it is estimated that over 90% of smallholder farmers in all but the arid regions of Kenya produce horticultural products (IIED, 2007). There are about 500,000 producers nationally and 80% are small and medium scale producers (FPEAK). The production by smallholders accounts for some 70% of total national horticultural production in the country (Tegemeo, 2004) and over 90% of their fruits and vegetables is overwhelmingly consumed domestically. Meanwhile, the export component is controlled largely by a few large-scale own companies, an increasing number of contracted commercial horticultural farms, and a declining but still significant number of contracted smallholder farms. The small number of small-scale producers (150,000) who are considered to be playing any roles in the export value-chain are linked through 200 large-scale exporters (Mbithi, 2009). Yet, it is this large-small scale linkages that is the driving force behind the success registered in the export horticulture. In the domestic market smallholder producers are constrained from direct sales to rich consumers in the urban centres and the transactions are dominated by a web of marketing agents.

EAC countries are among the many developing countries with potential in agro-food production and export of the same, but only if it can comply with the market standards. Therefore despite the DFQF access granted to EAC goods under the EPAs, exports from EAC will still face restrictions in entering the EU market. This is further exacerbated by the fact that the standards regime of the EU is constantly changing and therefore requires constant upgrading of both skills and premises and might prove to add to transaction costs of EAC exporters.

24 Functions and Importance of Standards in Trade

The fact that the EU happens also to be the largest supplier of agri-food imports into EAC raises further concern. Fears have been expressed that smallholders may not be able to catch up with the trends, dynamics and pace of standards evolution in EU market so that their produce may never find entry into the EU market. Meanwhile, cheap imports from EU similar to those produced locally could render small-scale farmers uncompetitive in the domestic market and may destabilise their livelihoods.

Local consumers in EAC are also increasingly becoming standards-conscious and there has been a growing preference of high-standard and cheap agricultural imports from other regions. This further complicates the plight of smallholders. Yet, given advances in knowledge about health hazards, advances in food processing technologies, increased awareness about environmental protection, strict observance of human rights, rises in consumers' incomes, and the supermarket 'revolution', it is expected that more demand will continuously be placed on agricultural production and trade practices that will see a dramatic rise of the range of food safety standards, technical requirements and production techniques along the entire production and distribution chains.

Furthermore, stricter compliance with standards is to be expected because as traditional trade barriers come down, countries with protectionist interests would most likely shift to use of standards to block trade even more. As a result, standards-related issues will forever remain a source of major tension and sharp friction in international trade negotiations, and the people to be affected mostly by this trend are the smallholder farmers.

From the research results and discussions on the role of standards in trade, the following are among the key roles served by standards:

- Standards serve national objectives of promoting the health of a country's citizens and its flora and fauna; economic and social protection as relates to protection of workers' health, provision of social welfare, and avoidance of worker exploitation; the protection of the environment within and outside national borders. As a public good, therefore, standards serve to solve common problems which lead to common consumption benefits for the public. For example, sanitary and phyto-sanitary (SPS) standards contribute to improvement of public health, with spill-over benefits into higher productivity, as well as expanded export opportunities.

- Standards enable consumers to compare products with common characteristics, which enable them to exercise their right to choice.
- Standards help to improve information flows between producers, suppliers and consumers about characteristics and quality of products, thereby facilitating market transactions. For example, standards facilitate the interaction between producers and customers in a two-way traffic. To the producers, standards provide the medium of knowing preferences of customers in far-away markets; and, to the consumers, compliance with standards by producers gives them the confidence in the product quality and production processes of far-away producers.
- Standards in the value chains are important in improving efficiency through quality, cost, and delivery (QCD), but also through meeting demands of high-income economies who are largely the “drivers” of these standards.
- When products and processes become more standardised, transparency increases and trade becomes more predictable and easy to control, thus reducing costs of transactions. Implementing standards is thus important as it creates incentive for improved operational and managerial efficiency.
- Standards have technologically and innovative features embedded in them and hence the process of complying with them **lies in the transfer of advanced production capabilities to low-wage economies** who in turn gain by acquiring knowledge through spill-over and ‘learning by doing’. This process enables small firms/farmers to *upgrade* their production, thereby resulting in increased incomes.
- Standards, particularly those that require independent certification, intrinsically fulfil many of the broader requirements for producers to participate in global supply chains or compete in high-value products. For example, detailed record keeping of production inputs, traceability, and third-party monitoring that are part of **organics** are useful to improve chain competitiveness, which is key for producers to participate more effectively in lucrative markets.
- Standards play a key role in private-sector marketing strategies. Hence, with the emerging and increasing demands for high health and safety standards, private businesses have resorted to imposing additional standards, above the thresholds of public standards, to protect their safety reputation and also to **differentiate themselves from competitors**. Buyers/consumers, too, have imposed many requirements informally through individual supply chains.

- Furthermore, most of the emerging standards have helped to serve other noble goals. **Sustainability principles** embedded in the **organic standards** appear to have some additional benefits for farmers. For example, several of these standards do recommend diversification away from dependence on a single cash crop, and this reduces a producer's risk of crop failure. Similarly, **environmental standards** help to ensure sustainable production and are beneficial to farmers. Likewise, **ethical standards** like fair trade standards basically resulted from the concerns of consumers in developed countries over the progress of development through global trade and have helped to promote some degree of social justice in the trading system. They are, therefore, seen as a market-based mechanism to addressing market failures and their social impacts to improve lives of producers in developing countries. Other recent ethical standards have also included labour standards that ensure conducive and humane working conditions, fair wages and non-exploitation of children in farms. These are socio-economic goals that if, otherwise, left to public standards may not be achieved easily.
- There are also experiences where compliance with strict market food safety and quality standards help stimulate investments, and supply chain modernisation, while providing incentives for the adoption of better safety and quality control practices in agriculture and food manufacturing. Rather than degrading the comparative advantage of EAC countries, there underlies the potential that the process of compliance with standards can result in new forms of competitive advantage and contribute to more sustainable and profitable trade over the long term.

However, the proliferation of standards continues to create a trading environment that is full of uncertainties. While standards may at the same time pass knowledge and information necessary for producers to participate in global chains, they may also act as “barriers” to trade and increase transaction costs for exporting firms. Despite the benefits, the economic costs associated with meeting high hygiene standards when a country has only a limited volume of production is particularly important for EAC countries where limited production runs can greatly increase the unit costs of processing to a standard that will allow access to the EU markets. This could come to constitute an important barrier to trade for smallholders. The smallholder farmers in EAC countries face many constraints and challenges with regards to compliance with the given market standards.

[3]

European Union Regime for Food Safety and Agricultural Standards and Requirements for Third Countries' Imports

As highlighted in the previous chapter, the European Union is the world's largest importer of agricultural and fishery products. This makes it imperative for all the exporters who wish to supply its rich market that they comply with the prevailing food safety and agricultural standards.

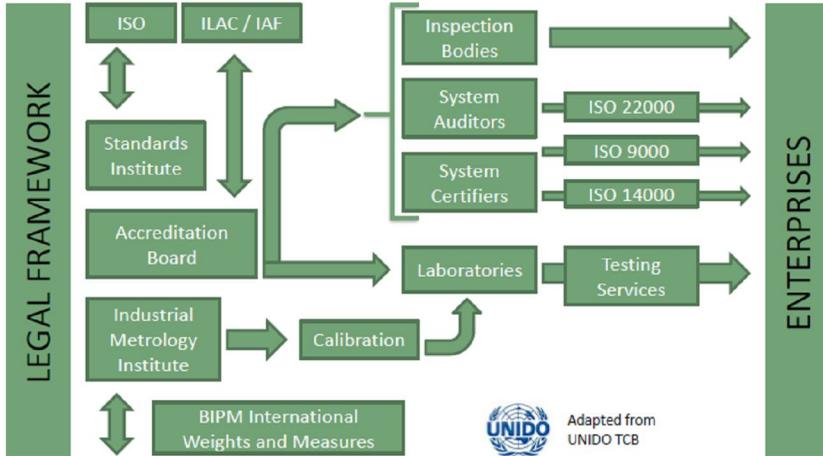
3.1 The EU Standards Regime: Drivers and Trends

The EU Standards regime can be classified into several categories depending on their function or the way they originate. From the way they originate distinction can be made of two broad sets of standards: **public standards and private standards**. Public standards are initiatives of the **government** and they are strictly mandatory as the government has the ability to enforce them through legislation. Private standards, on the other hand, are developed in response to **market forces**, but they are voluntary and primarily serve the interests of those who develop them. In the category of private standards are those that are developed by private businesses and those initiated by consumers but implemented by the private sector. The private businesses will only take the interests of consumers into account to the extent that it benefits their own interests too (den Butter et al., 2007). Some of the consumer-driven standards are regarded as **good-will, ethical standards or niche standards** as they are driven mainly by the philosophy that consumers from rich countries feel an obligation to contribute to the empowerment and betterment of the lives of the large mass of poor farmers across the developing world and are, therefore, willing to pay premium prices on their produce to promote poverty reduction, ethical production and sustainability of the environment. Organic and fair trade standards fall under this category. Although they are considered as voluntary, in that they imply no legal recourse for failure to comply with them, those who want to serve the niche markets controlled by the private standards have to comply with the set standards. Thus, in a business sense, private standards are mandatory as well; more so, it is the private sector that does commerce.

3.1.1 Public Standards

Public sector standards regulation mainly provides a legal framework within which enterprises are supposed to operate in order to guarantee compliance. They represent thus a public-private sector relationship as depicted in the figure below.

Figure 3.1: Public Standards Framework



The **ISO 9000** is a family of standards for quality management system in production environments. Some of the requirements in ISO 9001:2008 (which is one of the standards in the ISO 9000 family) include a set of procedures that cover all key processes in the business; monitoring processes to ensure they are effective; keeping adequate records; checking output for defects, with appropriate and corrective action where necessary; regularly reviewing individual processes and the quality system itself for effectiveness; and facilitating continual improvement

A company or organisation that has been independently audited and certified to be in conformance with ISO 9001 may publicly state that it is "ISO 9001 certified" or "ISO 9001 registered". Certification to an ISO 9001 standard does not guarantee any quality of end products and services; rather, it certifies that formalized business processes are being applied. However, some marketing departments normally take advantage of public confusion and ignorance about ISO 9000 because most consumers suppose that ISO 9000 is the same as ISO 9001.

The **ISO 1400** is a standard for environmental management systems that is applicable to any business, regardless of size, location or income. The ISO 14000 environmental management standards exist to help organizations minimize how their operations negatively affect the environment. Its aim is to reduce the environmental footprint of a business and to decrease the pollution and waste a business produces.

The **ISO 22000** international standard specifies the requirements for a food safety management system that involves the following elements: interactive communication through the food chain; system management; prerequisite programs; and HACCP principles

Since food safety hazards can occur at any stage in the food chain it is essential that adequate control be in place. This implies communication between organisations both upstream and downstream in the food chain. ISO 22000 has been aligned with ISO 9001 in order to enhance the compatibility of the two standards in systems management. It integrates the principles of the Hazard Analysis and Critical Control Point (HACCP) system and application steps developed by the Codex Alimentarius Commission. By means of auditable requirements, it combines the HACCP plan with prerequisite programmes. Hazard analysis is the key to an effective food safety management system, since conducting a hazard analysis assists in organising the knowledge required to establish an effective combination of control measures.

3.12 *Reasons for Proliferation of Private Standards in EU*

However, the proliferation of private standards in the EU has been driven by several factors. The leading factors in the development of the many private standards on food safety and agricultural trade in the EU can be assessed in light of the following drivers of change:

- **Liability on retailers and food industries to provide quality and safe food:** the new EU Food Safety legislation (EU Food Safety Regulation number 178/2002 –developed in the aftermath of the bovine spongiform encephalopathy (BSE, or mad-cow disease) crisis and several other food scandals) has sought to lay the liability for food contamination on the food industries and retailers in the EU. This requires retailers to embed accountability and tracing mechanisms throughout the chain, resulting in increasingly stringent regimes.

Meanwhile, Consumers' demand for quality and safe food requires retailers to ensure product homogeneity, consistent deliveries, high quality and stable shelf life.

- **Social, poverty reduction and environmental responsibility:** Consumers in the EU are increasingly becoming aware of the social and environmental issues related to the products they buy. This combined with advocacy campaigns and media attention, is leading to much greater concern about social and environmental issues along the value chain. The pressure for embedding social and environmental issues in the conduct of EU businesses also comes from the demanded by the EU governments and shareholders. Besides, many consumers and civil society organisations are aware of the international trade malpractices that lead to vicious cycle of poverty in many agro-based developing countries and feel they have a responsibility to making trade fairer for the poor. Thus, in order to promote ethical and sustainable production methods in the farming practices where their food is sourced from, these consumers are willing to pay premium prices on such goods. This is in order to contribute to the empowerment and betterment of the lives of the large mass of poor farmers across the developing world.
- **Campaign by Media and Lobby groups:** These groups are also bringing the issues of health, fair trade, environment, workers and children's rights and animal rights to consumers' attention. This is creating new market opportunities as well as affecting standards, product differentiation, marketing strategies and corporate social responsibility along the production and supply chains.

According to a recent research (IGD, UK, 2007), the most important reasons consumers put into consideration when buying food and drinks in Europe are because the products are of quality they want (41%), healthy (36%), are affordable (25%), made from organic or natural ingredients (14%), more ethically produced (10%) or because they are better for environment (9%). This raises both opportunities and challenges for small-scale producers wishing to supply to these buyers. This underscores the reasons that in order to stay in business, one has to pay attention to the issues concerning health safety, fair trade, environment responsibility, workers and children's rights and animal rights; this is seen as a marketing plus, while ignoring them is regarded as business risk. The result has been increased interaction between civil society and agri-business actors (mainly retailers and large food processors) in formulating and implementing good agricultural practice in environmentally friendly and socially fair production and trade

processes. Thus, a number of private standards have emerged and they continue to change and become more stringent.

These drivers have created changes which have resulted into trends that have now completely transformed the EU standards regime. The changes have resulted into two main categories of standards driven by the private sector and public response which has seen increases in the number of international public standards such as follows:

- A variety of **niche/specialist market standards**, for example, organic standards, fair-trade standards, rainforest alliance standards, the carbon standards, and social accountability standards (SA 8000) as depicted by the following logos:



Organic Standards are mainly meant to promote farming that is non-contaminated with manufactured chemicals considered to be harmful to environment and to human health. Certification for organic standard covers several important areas of agriculture and of aquaculture as well. There are preliminary conversion requirements that help to ensure that the cultivation medium and the area cultivated are reasonably free of contaminants or synthetic agrochemicals. Then certification addresses the processes of cultivation, particularly issues of fertilization, crop protection and risks of contamination. Within the EU it encompasses such standards as EU organic, a standard for labelling of all organic foods sold in the EU.

Fair Trade standards, on the other hand, are meant to promote socially conscious production, mainly dealing with human and worker rights. They guarantee minimum prices considered as fair to producers. They provide a Fair trade Premium that the producer must invest in projects enhancing its social, economic and environmental development. They set clear minimum and developmental criteria and objectives for social, economic and environmental sustainability.

The SA 8000 is a universal code of standards auditable by third party, and is voluntarily adopted by companies that adhere to specific standards for working conditions and labour rights. SA8000 is based on the principles

of international human rights norms as described in International Labour Organisation Conventions, the United Nations Convention on the Rights of the Child and the Universal Declaration of Human Rights. It measures the performance of companies in eight key areas: *child labour, forced labour, health and safety, free association and collective bargaining, discrimination, disciplinary practices, working hours and compensation*. SA8000 also provides for a social accountability management system to demonstrate ongoing conformance with the standard.

- **Industry (private coalition) standards:** for example EUREPGAP (transformed into GLOBALGAP since 2007); safe quality food (SQF 1000/2000) quality code which is a HACCP-based food quality and safety certification code for primary producers, international food standard (IFS); Nature's Choice which promotes organic production and bio-friendly wholesome natural foods which are free of preservatives and chemicals, and have not been subjected to any form of deleterious; filiere qualite; British Retail Consortium (BRC), which was developed with the main objective of protecting consumers' health and to enable British retailers to comply with the UK Food Safety Act. This standard works on the principles of HACCP standards and hence requires certification by a third party. Firms supplying to the UK retailers have to comply with this standard Standards etc.



Some of the regulations of GLOBALGAP include Phyto-sanitary measures; conformity to quality standard,; Maximum Residue Limits (MRLs); new organic inspection requirements; standards on labour rights and worker welfare; environmental standards; labelling and traceability requirements; requirements for record keeping and auditing; traceability and generally Good Agricultural Practices among others. GLOBALGAP is actively involved in harmonisation of standards and provides and facilitates a benchmarking process whereby national and regional standards that are in line with the vision and objectives of GLOBALGAP standards are evaluated for GLOBALGAP equivalence.

The BRC was first issued the Global Food Standard in 1998 with the intention of eliminating multiple audits by retailer and third party auditors on food manufacturers supplying UK retailers with their own brand products. This standard is used as the benchmark for food safety management and has been extensively revised to reflect EU legislation and continuous best practice requirements. It possesses a comprehensive scope covering all areas of product safety and legality issues and addresses part of the due diligence required of both the supplier and the retailer. The BRC standard has now become the internationally recognised mark of excellence. The retailers, food producers, importers, caterers, ingredient suppliers and the food service industry can all benefit greatly from this essential standard. It is currently used by suppliers all over the world including East Africa.

- **International public standards:** International Plant Protection Convention (IPPC), ISO, World Organisation for Animal Health (OIE); CODEX Alimentarius, which is a collection of internationally recognized standards, codes of practice, guidelines and other recommendations relating to foods, food production and food safety as pioneered by FAO and WHO.



3.2 EU Standards Regime and WTO Standards Framework

3.2.1 The WTO Standards Framework

Trade in food and agricultural products is supposed to be controlled within the WTO legal framework for standards as provided in its Agreements on Sanitary and Phyto-sanitary (SPS) and Technical Barriers to Trade (TBT) measures. These are contained in the following WTO SPS agreement principles:

- *Scientific basis of measures:* SPS measures taken by Member states to protect public health shall be science-based and appropriate (Article 2.2.);
- *Least trade restrictiveness:* not be an unjustified barrier to trade (Articles 2.3);
- *Harmonization based on international standards:* be based on international standards, guidelines or recommendations, where they exist (Article 3.1); e.g. OIE, Codex, IPPC, ISO;

- *Recognition of equivalence*: Members shall accept SPS measures of other Members as equivalent if the exporting Member objectively demonstrates that its measures achieve the importing Member's appropriate level of SPS protection (Article 4.1)
- *Transparency*: members may apply higher level of SPS protection only if there is scientific justification (Article 3.2).
- Participation in (international) standard setting
- No unjustified costs in testing, certification, approval

322 *EU principles, legislation and procedures for Third Countries' Imports*

Some EU experts have argued that the EU SPS requirements are respecting the WTO SPS principles, meaning that they are either based on international standards setting bodies' recommendations or codes when they exist or they respond to the EU expected level of protection of the consumer health that is based on scientific assessments. In addition the precautionary principle is included to be applied when serious scientific uncertainties exist from the exporting country. The research paper from where this Position Paper has been developed tried to understand the points of convergence and divergence between the EU SPS requirements as enshrined in the **EU Food Law (Regulation (EC) No 178/2002)** and the WTO SPS and TBT principles.

The EU Food Law requires that same level of protection of consumer health is guaranteed both by food produced in the EU and imported into the EU. It bears the notion of **equivalence**, where it says in Articles 11 and 12 that "food and feed imported to the Community shall comply with the relevant requirements of food law or conditions recognised by the Community to be at least equivalent with requirements contained therein..". This, however, means that Third Countries can be considered to provided the same level of protection to EU consumers only when this equivalence has been recognised by the EU, on basis of the exporting country information and guarantees.

One of the main EU food safety principles is that the entire food production chain must be under control regarding general hygiene rules and specific relevant hazards, first by the Food Business Operator and secondly by the Competent Authority which has to ensure that food safety requirements are adequately implemented, properly controlled and enforced. This principle also applies to third countries aiming to export to the EU, meaning the EU must recognise the Competent

Authority (CA) in the exporting country in delivering official controls on food as required by the EU.

For countries wishing to export food of animal origin (FAO) to the EU they must satisfy certain *animal health, public health, veterinary certification and residues requirements*. This means, traders must provide animal health guarantees on top of food safety guarantees and have in place residue monitoring plan for veterinary drugs. In addition, they must have pesticides and environmental contaminant monitoring programme. This implies that for a third country, an approved residue plan is a prerequisite for export of food of animal origin to the EU. In addition, the approved country must be listed in on the list of third countries authorised to export to the EU (see Commission Decision 2004/432/EC); listed as well on the "residue monitoring programme" list, and that the Competent Authority must send to the EU the list of establishments/vessels providing guarantees at least equivalent to those required by the EU legislation. These Plans must be submitted to the Commission and approved annually.

In general a third country can only be listed further to a Food and Veterinary Office (FVO) inspection mission report with favourable outcomes. The elements of a residue control system is as depicted in the figure 3.2. The FVO scrutiny is done on the system either on the spot or through desk study.

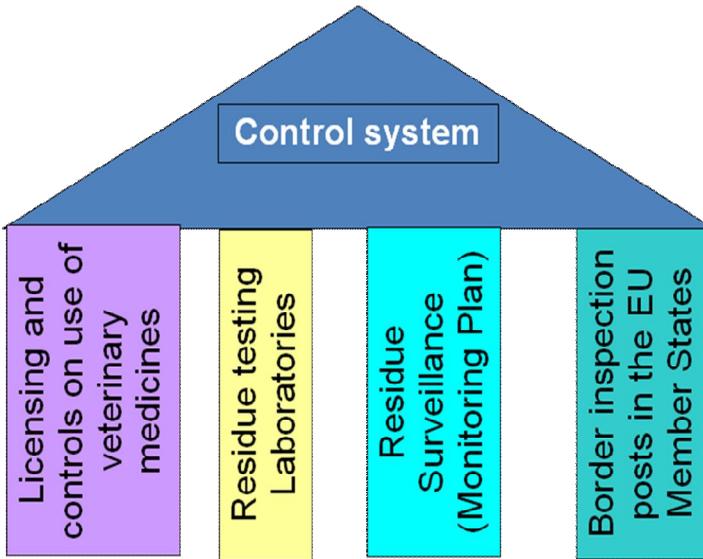
Finally, each consignment covered by an export health certificate is controlled in Border Inspection Posts by officials from Member States. A documentary, identity and physical check is carried out. All relevant Community legislation may be obtained from: <http://europa.eu.int/eur-lex/lex/en/index.htm>

3.2.3 Divergence between EU Standard Regime and WTO Legal Framework for Standards

Many developing countries are concerned about the proliferation of private Standards in the EU especially in the context of the SPS Agreement. This is partly because under the SPS Agreement, measures can be taken only if necessary for health protection, with scientific evidence required to demonstrate this "necessity" (except for emergency situations when temporary actions may be taken). Justification requirement is through the use of internationally developed food safety, plant and animal health protection standards which must be no more

trade restrictive than required to achieve the desired level of health protection.

Figure 3.2: Elements of a residue control system



On the other hand, the EU standards address a mix of SPS, TBT and other objectives –including social and environmental concerns that are not related to food safety or plant/animal health protection. These private requirements may have no scientific justification, but may address consumer perceptions of what is safe or unsafe, or may reflect production practices common in developed countries but unknown and perhaps unsuitable for developing country producers. Certification is implemented by private companies, at much greater expense than governmental schemes, which, at most, seek to recover costs only. Private certification must also be renewed regularly, whether or not the production conditions have changed and most often, the costs of compliance and certification are borne by the developing country producers.

Provisions of the SPS and TBT Agreements require consideration of the special needs of developing countries, through the provision of special and differential treatment. They also require that there be no unjustified costs in testing, certification or approval procedures, to ensure that these

do not become barriers to trade. Conversely private standard bodies have apparently not taken the effects of their standards on developing countries or the degree of their trade restrictiveness into account. Developing countries are hence facing difficulties in meeting these standards and in gaining access to these markets.

3.24 Divergence between EU Private Standards and WTO Legal Framework for Standards

Private retailers in the EU have often imposed and modified their requirements without any advance notice, the standards are set without any consultations from producers and with no opportunity for them to comment or complain. However, compared to the disciplines that the WTO standards are placed on government regulations, but there is little transparency in the development of private standards, and there is no forum for challenging private standards comparable to the SPS Committee or the dispute settlement mechanism of the WTO. Issues about the impact of private standards and the apparent need to control the sector have now been brought under their purview of the WTO SPS Committee. In October 2009, an analytical report with proposed specific actions to be taken by the SPS Committee on the issue of private standardisation was due. The **three main reasons why private standards are being discussed in the WTO SPS Committee** are to consider their

Market access implications: The possible market access implications of the EU private standards include:

- They often go beyond international standards (e.g., demand very low or zero Maximum Residue Levels - MRLs).
- They go beyond official requirements (e.g., demand Good Agricultural Practices, Labour requirements, Environment requirements that are not part of the list of requirements stipulated by international standards).
- They have becoming de facto market access requirements to the extent that traders can now not distinguish between private and official requirements.
- they continue to multiply in different schemes, causing overlap and/or contradictions, lack of harmonisation and have no equivalence with public standards.

Developmental implications which include the following:

- high costs associated with private standards (costs of compliance, certification costs, and lack of 'real' price premium considering the costs involved); and,
- Greater Impact on small-and-medium-sized farmers and enterprises

Conformity with the legal aspects of the WTO SPS Agreement. The aspect being considered is

- Coverage and Applicability of SPS Agreement (Article 1.1 and Annex A(1), and Article 13); and
- mechanism/forum to address concerns.

The legal questions being raised on the private standards with respect to the WTO SPS legal framework are concerned with; scientific basis of the measures, least trade restrictiveness, harmonization based on international standards (OIE, Codex, IPPC), recognition of equivalence, transparency, participation in (international) standard setting, and that they bring no unjustified costs to traders in testing, certification, approval. The aim of all this is to determine the balance between their potentials as trade creators or as trade barriers.

On the implementation of food safety and agriculture standards, **Article 13** of the WTO SPS Agreement states that Members shall:

- take such reasonable measures as may be available to them to ensure that non-governmental entities within their territories ... comply with the relevant provisions of this Agreement.
- ...not take measures which have the effect of, directly or indirectly, requiring or encouraging such ... non-governmental entities... to act in a manner inconsistent with the provisions of this Agreement.
- ensure that they rely on the services of non-governmental entities for implementing sanitary or phytosanitary measures only if these entities comply with the provisions of this Agreement.

The same language is in the WTO TBT Agreement where the role of non-governmental bodies is supposed to be restricted with respect to the (mandatory) technical regulations and they are supposed to align with Code of Good Practice when setting (voluntary) standards. Similarly, there have been recent focus on the environment requirements imposed by the private sector and the potential of such measures to block market access, especially, considering the difficulties faced by developing countries. Another aspect being considered is the lack of harmonized standards for organic products.

[4]

European Union Regime for Food Safety and Agricultural Standards: Challenges and Opportunities for EAC Exports

Tougher requirements for exporting food of animal origin to EU

As we saw in section 3.2.2, livestock products are perceived by EU to represent the highest level of risk to human and animal health and consequently face the highest level of public regulation of international trade. For most EAC countries, export of livestock products to the EU market is almost impossible to achieve. This is due to the very high level of public and private sector investment required and the extreme level of difficulty in demonstrating compliance with requirements such as those for disease free areas. Excellent national systems must be in place and have to be approved by the EU through inspection and the importing country must have a Competent Authority responsible for implementation and that CA must be approved by the EU.

Numerous Legislation/Requirements

The biggest impediment with compliance with the EU standards for horticultural products as well as for export of livestock products lies in what is known to be EU standards and the different legislations by its Member States. Although the EU is a single market, the individual member states have their own unique regulations based on the demands by their consumers. Since most of these regulations are not combined into one document, most EAC exporters do not get full information about these regulations. Thus, due to lack of full knowledge, most exporters fail to observe the provisions of such legislation resulting to rejection of their export production when it is too late.

Little will by donors to match support with cost of implementing stringent standards

According to World Bank, the estimated impact of EU's new regulation on aflatoxins would be a cut on African exports of nuts, cereals, and dried fruits products by 64% or US\$ 670 mn., compared with their level under

international standards. UNIDO also estimates very high costs of complying with some of EU food safety and other market standards. For instance, testing and compliance cost to be able to export shrimps to the EU adds 2.8% to the cost of exports; enterprise quality/safety set up cost add another 5% to product cost; and to set up National Quality and Testing infrastructure would cost a country like Kenya between US\$ 5million to US\$ 25million.

Recently, a World Bank study showed that US\$ 1.75 billion worth of exports from developing countries have been disrupted in 2004, due to SPS (food safety) non-compliance. Yet, only US\$ 53 mn. spent by donors on SPS support.

Unjust and punitive measures

It can be recalled that in 2002, EU changed its requirements for the antibiotic (chloramphenicol) content in seafood from 1.5ppb gram to 0.3ppb gram which meant that seafood producers who had earlier been licenced to export to the EU had now their licences revoked for not complying with the new EU regulation.

The biggest challenge is that failure of one exporter within a country to meet the required standards may lead to massive rejection of all consignments of the same product from that country. Recently, Kenyan peas linked to dysentery problem in Norway caused alert in the entire EU market leading to blanket rejection of peas (see Box 4.1).

Box 4.1: Kenyan Peas Withdrawn from Norwegian Market

Recently, in June 2009, peas from Kenya, one of the country's major export hits, were being withdrawn from the Norwegian market as health authorities linked them to an exceptional outbreak of dysentery in the Nordic country. However, you find that although the health problem had been linked to peas distributed in Norway by a single retail chain known as Coop, the damage caused to Kenya's trade could be huge as other EU countries immediately blocked sale of the Kenyan peas in their markets, even though they did not experience any dysentery cases with the Kenyan peas.

The above illustrates some of the examples of forms of standards regulation practices that are particularly unjust and punitive. There are several difficulties in the rigorous process of trying to challenge the legality of some of the standards which may be deemed punitive as failure

to succeed in such process come with heavy compensation for the accused country. Kenya lacks adequate technical and negotiating skills.

Proliferation of and additional requirements by private standards

However, over the last 15 years new requirements have appeared in the the EU in form of private voluntary standards. Private standards are business-to-business relationships that reflect but normally go well beyond public regulatory requirements. Food safety remains the main focus but as we have explained earlier private standards also deal with other consumer concerns such as social and environmental responsibility, animal welfare and poverty concerns. These standards are not transparent in the way they are formulated and often fail to provide a voice for developing country stakeholders.

In addition, compliance criteria provided for private standards in EU are often not based on scientific evidence as required by the WTO and in some cases merely reflect the buyers' perception of risk.

We have also seen increased proliferation of private standards both at farm and processing level and farmers are confused which to comply with. And, even before they can comply with the existing standards anew set has emerged. This is because the drivers for standards are changing faster the standards themselves. For fruits and vegetable production the market has favoured compliance with GLOBALGAP standards for good agricultural practice making the choice quite simple. However, some growers have still to comply with one or more retailer specific standards in addition to GLOBALGAP. For example, there other than complying with GLOBALGAP standards, there are different retailer standards when has to export to France, Germany or UK markets.

For processing facilities different markets may require different standards to cover the same management systems. This creates unnecessary additional costs and loss of time in creating dual systems and multiple audits.

Efforts are being made towards mutual recognition of different standards through benchmarking schemes but recognition is still buyer dependent. For example, EU consumers do not consider products produced following Kenya organic standards to be the same as those produced through compliance with EU organic standards even though the two standards have been approved to be in harmony with each other by the IFOAM

(International Federation of Organic Agriculture Movement), the umbrella organisation for promoting organic trade.

Harmonisation of Kenyan Organic standards and the EU Organic standards appears to be difficult, since certification for the Kenyan Organic standards is seen to be different and cheaper than the EU Organic standards, and certification bodies in Europe do not fully recognise the Kenyan standard. This creates confusion for farmers as they are divided between complying with two organic standards. The result has been a dual system for farmers wanting to export to Europe and so have to follow the EU standards system and use an EU accredited certification body; while, those supplying the domestic market consider EU accredited certification (too) expensive and the EU Organic standards insufficiently adapted to the Kenyan context (HIVOS, ISS).

For major exporters and large-scale commercial growers private standards represent an unwelcome but necessary additional cost. However, there are still complaints over inconsistent auditing and continued updating of standards.

For smallholders, even standards like GLOBALGAP that are considered easy to comply with are very complex and expensive to implement and maintain, and the compliance criteria were not developed with smallholders in mind. In Kenya, NRI & IIED found that smallholders could only access GLOBALGAP if heavily supported by a well-resourced export company. Establishment and maintenance costs averaged €1,240 and €800 respectively but farmers only contributed €445 and €110 towards these costs. However, these contributions were significant as most farmers' incomes from export vegetables ranged from €210 to €525. Loans for establishment costs took 2-3 years for repayment. GLOBALGAP compliance improved quality, productivity and knowledge of smallholders and also increased the value of skilled labour in rural areas. However, over a three-year period 60% of smallholders were found to have been excluded from GLOBALGAP certification due to high costs of compliance. However, still 83% of excluded growers were exporting through intermediaries but derived a lower income from export vegetables. The high cost for smallholder farmers of complying with GLOBALGAP requirements can be assessed by looking at the list of requirements needed of smallholders (see example in Appendix)

Reputational and business risk for non-compliance

As public food safety regulations become more complex, so the challenges faced by food business operators increase. The emphasis on food business operators as those responsible for food safety has also greatly increased reputational risk. Demonstrating compliance with both public and private standards is very important in building a reputation for integrity on food safety at company and country level. This is often difficult to quantify but is well illustrated by the example of the damage done to China by the recent melamine in milk scandal. Retailers must exercise control over the entire value chain, and private voluntary standards are increasingly relied upon to codify the procedures needed to ensure and demonstrate compliance with the public standards as well as to protect and maintain reputation. Third-party certification is their means of enforcing compliance, but in addition transfers some of the burden and cost up the value chain towards exporters and producers. This creates major challenges for EAC exporters, particularly when supply chains involve many small-scale growers.

High compliance cost and exclusion from supply chain

During 2007-08, PIP conducted a survey of 102 beneficiary horticultural export companies distributed across 10 countries in East and West Africa. The aim was to assess their compliance status, but also to study the impact of private standards on companies and their small-scale grower suppliers. The results indicated that despite substantial donor support, only a small proportion (15.9%) of small-scale growers supplying respondent companies was certified by March 2008. These results supported the finding of other researchers that under the current form and functioning of the private voluntary standards, small-scale grower certification requires substantial external support and may not be cost effective over the long-term. The survey result also showed that in Kenya there had been a marked decrease in sourcing from small-scale growers.

The survey showed that buyer requirements, in particular private voluntary standards, create obstacles as well as opportunities to market access for suppliers. Some elements of the private voluntary standards that make them most costly and inaccessible are simply a consequence of translating EU-centric standards into the very different EAC production environment.

Because of the demand for high quality and assurance of food safety, many EU supermarkets are often cautious of sourcing from smallholders, who they perceive as not having the resources needed to be able to put in

place necessary infrastructure to be able to implement the types of reforms that are required to achieve the required certification. Not only are there increased transaction costs in dealing individually with many small farmers but the supermarkets realise that failure to meet food safety or environmental standards can result in **bad publicity** and undermine their position in the market place. Consequently there is a belief that concentrating their grower base will reduce their exposure to risk since they would have greater control over production and distribution. As they guard against reputational risk these supermarkets avoid obtaining supplies from importers who they perceive cannot guarantee the traceability and food safety of consignment. Thus, in order for these importers to prove the traceability and food safety of their consignments, they will limit supplies from producers who cannot adopt conforming agricultural practices. As a result, thousands of smallholder farmers are left out since they lack capital to practice 'good agricultural practices' and to work towards being compliant.

Difficulty with the enforcement of high residue levels

There are strict controls on the maximum residue levels (MRL) allowable which is different across products that enter the EU. MRL control normally occurs where use of chemicals is involved. These chemicals are used to control plant diseases caused by fungi, bacteria, viruses and phyto-plasmas, and to control of pests and other insects that destroy crop and control of weeds during pre and post harvest periods. However, detection of any chemicals above the MRL during inspection at the port of entry in EU may sometimes lead to rejection of the whole consignment. Unfortunately, in tropical countries like EAC, the climate encourages rapid multiplication of pests, plant diseases and weeds, making it almost inevitable to avoid use of chemicals (pesticides, fungicides, herbicides, insecticides). Moreover, weed control is the most labour demanding pre-harvest operation and any measure that may effectively help control it would be particularly imperative to lower the cost of farming. Enforcement of MRL, therefore, becomes tricky.

Collusion in Standards Formation

In many cases, private EU standards setters also tend to have marketing control over the sector they are setting the standards for. This allows them advantage of using their market power to pass on the costs and risks of production to producers using strict quality standards. One market where the issue of **standards collusion** is of significant concern is the UK fruit and vegetable market where a small number of

supermarkets control the market and play a major role in the setting of standards. Although these supermarket chains are under considerable scrutiny from competition bodies in relation to their pricing policies, so far, little if no attention has been paid to their activities in relation to the setting of SPS standards.

High cost of winning supply tender from EU supermarkets

The lengths some suppliers go in order to win bids from supermarkets are often out of reach of mid-size farmers, let alone smallholders. Getting into an EU supermarket's supply chain may mean investing in irrigation, greenhouses, trucks, cooling sheds and packing technologies. Farmers need to be able to sort and grade their produce, document their farming practices and meet timing and delivery deadlines. This is why shipping horticultural products by air is preferred. In order to make rapid and reliable delivery, farmers have to secure air cargo space. But, only the largest exporters have the most leverage when it comes to negotiating air cargo space with commercial airlines. Small exporters have to wait for space to become available on passenger airlines –often while the quality of their products deteriorates on the tarmac.

Uncertainties with Sustainability of benefits of goodwill standards

The expansion in the trade of both organic and fair trade products is mainly dependent on the sustainability of the goodwill that they elicit from European consumers who volunteer to pay premium prices for products sold with Fair Trade and Organic labels. However, the system leaves producers and exporters operating in an environment full of uncertainties. There are concerns that certain forces may whittle away this precious asset; for instance, the recent financial crunch that reduced consumption of fair trade products because of their premium prices.

In conclusion, while compliance with strict market food safety and quality standards may be difficult for EAC countries, achieving such standards may serve as a stimulus for investments in the supply chain modernisation, while providing incentives for the adoption of better safety and quality control practices in agriculture and food manufacturing.

Rather than degrading the comparative advantage of EAC countries, the compliance process can result in new forms of competitive advantage and contribute to more sustainable and profitable trade over the long term.

There are numerous benefits associated with compliance with market standards at grower, industry and country levels. So far in Kenya, some GLOBALGAP-compliant smallholders have already realised benefits such

as: improved quality of produce, both for the local and export markets; increases in numbers of employees and acreage under export and local market vegetables; better environmental conservation and management; marketing contracts with major exporters as well as considerable savings on the pesticide use.

Although there are genuine concerns with compliance with the EU-driven standards, especially for small-sale growers, the main cross-cutting issue is how to help these farmers to reap the opportunities associated with standards compliance and also to get to grips with the highlighted challenges. In general, the advantages of compliance with standards have been outlined as:

- Stimulating new investments
- Modernisation of export supply and regulatory systems
- Enhancing the sustainability of production systems
- Improving worker and consumer welfare
- Fostering improved public-private collaboration
- Adoption of safer production and processing systems
- Improve domestic food safety and agricultural productivity
- Can form the basis of an overall competitive strategy - a strategy to position industries for long-term competitiveness
- Maintain and improve market access - assured regularity of demand;
- Conversely, the costs of non-compliance involve losses in trade, income and
- Employment creation.

Conclusion and Recommendations

As public food safety regulations become more complex, so the challenges faced by food business operators increase. The emphasis on food business operators as those responsible for food safety has also greatly increased reputational risk. Demonstrating compliance with both public and private standards is very important both for a company and country in building a reputation for integrity on food safety. Retailers must exercise control over the entire value chain, and private voluntary standards are increasingly relied upon to codify the procedures needed to ensure and demonstrate compliance with the public standards as well as to protect and maintain reputation. Third-party certification is their means of enforcing compliance, but in addition transfers some of the burden and cost up the value chain towards exporters and producers. This creates major challenges for EAC exporters, particularly when supply chains involve many small-scale growers.

Despite the benefits, the economic costs associated with meeting high hygiene standards when a country has only a limited volume of production is particularly important for EAC countries where limited production runs can greatly increase the unit costs of processing to a standard that will allow access to the EU market and increasingly to EAC markets. In our research we have seen that this constitutes an important barrier to trade for smallholders. The governments, business sector and smallholder farmers in EAC countries face many constraints and challenges with regards to compliance both with the official standards and private voluntary standards in the EU.

In summary, the most important constraints and challenges facing EAC countries and traders in meeting the market requirements for food safety and agricultural trade with the European Union are as follows.

- Lack of recognition of EAC national standards as equivalent to those of the European Union and its Member States.
- Non-harmonised national standards among EAC Partner States.
- Biased perception of EU consumers against EAC national standards including non-recognition of the harmonisation between Kenyan organic standards and EU organic standards.

- Proliferation of tougher private voluntary standards, especially, the non-transparency in the way most of the EU-based private standards are formed, which in many cases needlessly force firms to duplicate testing and certification costs.
- Standards evolve within existing challenging business environment. However, the factors that drive them often change faster than the responses; hence, the difficulty traders and growers face is in trying to chase a moving target and they find it difficult to match the pace, trends and dynamics of standards evolution.
- Weak participation of developing countries in global standards setting, which gives the EU governments the leadership over establishing international standards that fail to take account of the peculiar difficulties facing developing countries.
- Similarly, many problematic elements of compliance with EU-driven standards is a consequence of trying to operate inflexible EU-centric private voluntary standards in EAC production environment.
- Lack of involvement of local private sector and farming community in in the formation of EU-based private voluntary standards.
- Weak monitoring and enforcement capacity, especially with the situation of increasing proliferation private standards which in many cases force traders and growers to duplicate certification.
- Gaps still exist in our local metrology systems, quality laws, sanitary legislation, and codes of practices; there is near lack of human and technological capacity to provide such services.
- Inadequate financing for investment in compliance, especially for smallholders and dwindling FDI is also affecting large local firms. This is further compounded by the fact that technical assistance provided by EU does not match the cost of complying with extra standards requirements they demand.
- Lack of well functioning information management infrastructure, e.g. at notification points.
- Systematic collection and storage of record is lacking, and research capacity is weak; in particular, capacity for risk assessment, management, and control is weak, particularly, among small-scale farmers.

- It is ridiculous to demand of farmers to use of portable water in farming when they do not even have the same for domestic use.
- Low awareness about the role and impact of standards and standards compliance procedures across the stakeholders,
- Access to information about global best practices is limited especially for smallholders.
- Lack of rural infrastructure, high supply management costs and insufficient support services affecting mostly for small-scale farmers.

Challenges and recommendations specific to small-scale growers

- The lack of capital by small-scale farmers may mean that they cannot effectively connect with the marketing chain; they cannot invest in high level research to inform the quality of their production, hence, their quality barely meets the export market standards; their supply cannot be guaranteed without availability of rains; and, they have to do with deterioration of quality of their produce mainly due to poor post-harvest handling and poor storage and collection system. EAC countries need to invest in these issues that affect farmers.
- Smallholder farmers face particular problems when trying to sell to wholesalers, retailers and the supermarkets. Their farms tend to be widely scattered and often remote from centralised collection facilities. Generally, this makes it physically and organisationally impossible to deal with individual smallholder farmers because of the transaction costs including costs of invoicing, logistics, and quality checks.
- The limited power of national supervision authorities on standards and quality also means that what is delivered by smallholder farmers for domestic consumption do not adhere to standards and required quality. Poor roads and unreliable transport in rural areas also means farmers have to pay high transport costs and find it difficult to maintain the consistent quality required for the export market. The poor state of the road network also contributes to delays and bruising of the produce. EAC governments need to invest heavily in the rural economic infrastructure and establish systems for affordable access and credible implementation of standards.
- Lack of information is a further constraint to farmers. Few of the farmers would even read and understand the standards and

certification jargon. For that reason, smallholders often lack information on the quality required and on markets. This lack of information may be solved through translations of the technical language in which many standards are written to easy or local languages that farmers can be encouraged to read, adaptat their operations to. The same can be achieved if standards bodies can undertake to simplify and present standards in images, photos and video clips.

There are concerns that standards can have a negative impact on equity and livelihoods if they are not designed carefully to integrate the views and concerns of the small producers and even to localise the standards to their understanding. In light of the above challenges, there is a pressing need for mechanisms that allow for flexibility so that the private voluntary standards can be adapted to local conditions.

Similarly, improved dialogue is needed with EU buyers in order to ensure that their policies create and enhance opportunities to trade, particularly with the potential expansion of retailer-driven private voluntary standards into areas previously the domain of NGOs and government (e.g. social accountability and environmental management).

A strong case, therefore, exists for establishing a structured EAC-EC and also CSO-state-PSO-smallholder dialogue for addressing the challenges posed by stricter EU SPS standards. This will need to address four areas i.e., the setting of standards; the costs of technical compliance; the costs of verification, and transitional arrangements.

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Vermeulen, S. *et al.* 2008. **Chain-wide learning for inclusive agrifood market development: a guide to multi-stakeholder processes for linking small-scale producers with modern markets**. IIED, London, UK, and Wageningen University and Research Centre, Wageningen, the Netherlands.

Some Useful Websites:

Brussels Development Briefings found at: <http://brusselsbriefings.net/>

www.iied.org/pubs

<http://www.tegemeo.org/publications.asp>

[http://www.cuts-grc.org/pdf/BIEAC-Standards and Market Access Under EPAs.pdf](http://www.cuts-grc.org/pdf/BIEAC-Standards%20and%20Market%20Access%20Under%20EPAs.pdf)

Appendix

Example of Smallholder Implementation Guide for compliance with GLOBALGAP (www.globalgap.org):

- a) *For Workers' Safety, the following are mandatory requirements which must be assessed:*
- *Does the farm have a written risk assessment for safe and healthy working conditions?*
 - *Does the farm have a written health, safety and hygiene policy and procedures including issues of the risk assessment?*
 - *Do accident and emergency procedures exist, are they visually displayed and communicated to all persons associated with the farm activities?*
 - *Are potential hazards clearly identified by warning sign and placed where appropriate?*
 - *Is safety advice available/accessible for substances hazardous to worker health when required?*
- b) *For workers' welfare, the following are the typical requirements:*
- *If you have workers, you are responsible for their welfare as workers. You have to respect local regulations regarding labour. In this case, a member of the management who is responsible for workers' welfare must be known to all workers.*
 - *Write down the following details of both permanent and casual workers: full name, date of entry, period of employment, regular working time, overtime regulations.*
 - *Workers should have a place to store and eat food, potable water a handwashing facility.*
 - *Living quarters on the farm should have the basic condition (roof, window, door) and basic services (running water, toilet, drain or septic pit)*
 - *Hold a meeting with your workers once a year to hear their views about their working and living conditions. Take the minutes of the meeting and keep the records of such meetings for inspection.*
- c) *For waste management:*
- *Keep your farm and premises clear of litter and waste to avoid establishing a breeding ground for pests and diseases which could*

result in a food safety risk. Thus, there should be no litter on the farm and your farm and premises should have adequate provisions for waste disposal.



- Collect waste at once place. Separate different types of waste, if possible.



- Have a waste management plan and involve your workers in identification of waste and pollution sources. Based on this assessment is to be made whether the farm implements its waste management plan and workers (if prompted) can identify all possible waste products and their sources of pollution.

d) For environmental conservation:

- Ask the group's QMS manager about the Environmental conservation policy of the group. Implement what is stated in the group's policy.
- Your agricultural production should not destroy the environment. You should put effort to conserve the environment. For example:
 - Take a baseline audit of what animals and plants exist on the farm to enable tracking of increase and decrease of animal species on the farm
 - Do not burn the field while preparing it because burning kills all the living organisms in the field and your soil becomes poorer and harder.
 - Leave trees on the farm because trees are the host of various animals and plants. Roots of the trees prevent soil erosion.
 - Plant trees around the farm, between the fields, along the pass ways etc. to enhance the biodiversity on the farm, prevent soil erosion, and prevent drift of chemicals

- *Keep unused section of the farm as a conservation area to enhance the biodiversity on the farm, and protect the habitat for animals and plants.*
 - *Avoid farming near the water source to avoid contamination of water by pesticides and fertilizers and to avoid soil erosion.*
- e) *For farm hygiene:*
- *Keeping your farm hygienic is essential for production of safe products. Does the farm have documented hygiene instructions and put them up on so that workers and anyone else who come to the farm can always be reminded to keep the farm hygienic. General instructions should include keep your hands clean, cover skin cuts, smoking, eating and drinking in designated areas, notify the farm manager if you have health problems, use suitable protective clothing, etc.*
 - *Have all persons working on the farm received basic hygiene training according to the hygiene instructions?*
 - *Are the farms' hygiene procedures implemented?*
 - *Are all subcontractors and visitors aware of the relevant procedures on personal safety and hygiene?*
- f) *For personal hygiene:*
- *Personal hygiene is critical especially at harvesting, because the workers will be in direct contact with the produce. If they are sick, if their hands are dirty, or if they wear big jewelry, harvested produce could be contaminated or damaged. All harvest workers need to be trained on hygiene. They should always be reminded of personal hygiene instructions with a display at the farm.*
 - *Personal hygiene instructions should include: Wash hands, No big jewelry and watch, Keep fingernails short, Eating, smoking, drinking at a designated area etc.*
 - *If most of your workers are illiterate, the display should be pictorial.*
 - *Using the display, train all the harvest workers on the topic of personal hygiene.*
- g) *For harvesting hygiene*
- *At harvesting, anything that gets into a direct contact with produce should be kept clean.*
 - *Containers are kept clean and used only for produce (not for transporting other things).*



- *Tools (knives, scissors, gloves etc.) are kept clean and disinfected.*



- *Vehicles are cleaned regularly.*



- *Hands are kept clean by having access to clean toilets and hand washing facility. Workers should be able to access a toilet within 500m from their work site or access one with a transport. Hand washing facility made of a bucket and a tab*

h) For produce handling hygiene:

- *If you are packing your produce into cartons used for export directly in the field, ensure that packing and storing condition and packaging materials are hygienic.*
- *If you are packing your produce at a packhouse, you need to comply with the hygiene requirements at a packhouse.*
- *Before packing, sort the produce according to a quality criteria.*
- *Keep packed produce at a clean place under shade. If you keep them directly on the soil, under the sun or leave them overnight, they could get contaminated and the quality will deteriorate.*
- *Keep the packaging materials at a clean place. Do not store them outside.*
- *If you use water to wash the produce or use ice to pack the produce, it should be made of potable water.*
- *After a day of work, clean all the reject produce and packaging materials from the field.*



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