4 Can it be Mended? Kenya and the MFA Phase-out

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Introduction

The textiles and clothing industry has traditionally been considered one of the first steps up the industrialisation ladder in developing countries that are seeking to move from an economic structure based on primary commodity production to one in which manufacturing contributes an additional source of employment, value-added and exports. It has also been recognised as a major source of formal employment for women with low skills (Weston *et al*., 2008; Vijayabaskar, 2002). Textiles and clothing production is the largest source of industrial employment in the world, providing jobs for millions of people, the majority of whom have few employment alternatives. Its low skill requirements and large labour absorption potential have made this industry an important source of non-agrarian employment for the rural populace. Moreover, textiles and clothing products constitute the major exports of a number of developing countries.

In Kenya, between 60 and 70 per cent of the approximately 60,000 workers in the textiles and clothing industry are women with generally low levels of education and skills (Kamau, 2007). The industry accounts for 20 per cent of formal employment in the manufacturing sector. In addition, the subsector creates about 150,000 indirect jobs and supports the livelihoods of over 200,000 people, especially small-scale cotton farmers. However, the clothing industry in Kenya faces significant crises. These emanate from continued deterioration in the purchasing power of the majority of the population (reducing effective demand for products), cheap imports and the elimination of quotas following the termination of the Multifibre Arrangement in 2005. Consequently, closures of firms and lay-offs have increased drastically within the industry. Available statistics indicate that nearly 10,000 jobs were lost in the export processing zone (EPZ) alone between 2004 and 2007 due to factory closures and reduced operations. When non-EPZ firms are included, anecdotal sources indicate that approximately 40,000 jobs have been lost since 2004.

The termination of the MFA, which governed global textiles trade under a quota regime from 1974 to 2004, has exposed Kenya to stiff competition in third markets from more established manufacturing economies such as China (McCormick *et al.*, 2006). It has caused a dramatic shift in the world market for textile and clothing, creating winners and losers. While China and India (perceived winners) have achieved breathtaking gains in their garment exports, the industry in less competitive countries such as Kenya (perceived losers) has suffered a major setback, making its sustainability highly uncertain. Increasingly, competitiveness in global garment markets relies heavily on innovative capability and an ability to upgrade. Flexibility in production processes is also critical in maintaining the competitiveness of the Kenyan industry.[6]

The impact of the termination of the MFA on the garment industry in developing countries is now the subject of attention from analysts. This case study contributes to an evolving body of literature by critically examining how the termination has affected female workers in Kenya. It is largely based on 20 in-depth interviews conducted in 2008 among garment workers (helpers, operators and supervisors involved in the direct production of garments). Twelve were female and eight male; half the interviewees worked in EPZ firms, while the other half worked in non-EPZ firms. In addition to the primary data, secondary literature and published data sources were used to supplement the gaps in the interviews.

Structure and growth of the clothing industry

The Kenyan clothing industry is quite diverse in terms of size, ownership, technology and market orientation. It consists of micro, small, medium, large and very large firms that form a pyramidal structure with three tiers.[7] The base of the pyramid is formed by the micro and small enterprises that produce mainly for the domestic market, estimated at about 60,000 firms in 2003 (McCormick *et al.*, 2007). The next tier consists of firms ranging from medium to fairly large that produce mainly for the domestic market, with some forays into other countries within the region. Included here are many of the garment firms established during the import substitution era that have survived liberalisation. The third tier consists of large to very large export-oriented, often foreign-owned, firms. It is estimated that there were 15 such firms in 2000, most located in Nairobi and Mombasa, but by 2003 the number had tripled, mainly in response to the African Growth and Opportunity Act (see below). The majority of these firms operate in the EPZs, and workforce ranges from 200 to 3,000 workers (McCormick *et al.*, 2006).

The clothing industry grew rapidly during the first two decades after independence in 1963, owing to the controls instituted by the Government to protect the industry. However, by the mid-1980s the scope of import substitution policy in Kenya was exhausted. Beginning in 1986, the Government introduced structural adjustment programmes aimed at strengthening the competitiveness of the industrial sector.[8] The policy measures in the programme were aimed at removing the anti-export bias (disincentives to export) inherent in past policies. As a result of trade liberalisation, the clothing industry started to shrink because it could not penetrate and/or retain its share of international markets. In addition, massive dumping of used clothes – known locally as *mitumba* – significantly undermined the growth prospects of the industry (Omolo, 2006). In order to re-invent the industrial sector in the context of trade liberalisation, and in response to the deterioration of export performance, export promotion programmes were established in 1987. These included manufacturing under bond (MuB), EPZ and duty or VAT exemption schemes. The first two targeted new investments, while the third targeted existing manufacturers. These programmes were instrumental in creating an export-oriented garment industry in Kenya.

The EPZ scheme was established in 1990 and became fully operational in 1993. It is covered under the Export Processing Zones Act (Chapter 517), Laws of Kenya, which defines an EPZ as '... a designated part of Kenya where any goods introduced are generally regarded, insofar as import duties are concerned, as being outside the customs territory but are duly restricted by controlled access ...' (EPZA, 2008). The objective of the programme is to promote exports, foreign exchange earnings, transfer of technology and skills, employment creation and enhancement of industrialisation. Incentives for EPZ firms in Kenya include a 10-year tax holiday, unrestricted foreign ownership and employment of expatriates, freedom to repatriate unlimited amount of earnings, and infrastructure support. These firms are also exempted from observing some core labour laws and regulations. For example, until 2003 trade unions could not organise workers in EPZ firms and the Factories Act (Chapter 514) is still not being enforced in the zones. The majority of the EPZ firms were established in response to enormous market prospects presented the US-led AGOA (Phelps *et al.*, 2009). For customs purposes, sales from Kenyan businesses to the EPZs are treated as exports, and vice versa.

For firms in the EPZ for which data are available, employment grew from 5,565 workers in 2000 to a high of 36,348 in 2003, but then started declining in 2005 to reach 28,506 in 2007 (see Table 4.1). Similarly, the number of firms increased rapidly from six to 35 between 2001 and 2003. Beginning in 2004, the number of firms declined, falling to 22 in 2007. However, available evidence suggests that acquisitions and mergers have been very common in the Kenyan garment industry, so that some firms deemed to have closed down continued to operate, but under a different name. This partly explains why even though the number of firms was decreasing, exports and investment declined only marginally. In addition, firms tried to upgrade their production process in order to remain competitive, which could be attributed to the increasing investment between 2005 and 2006.

Table 4.1 Performance of the Kenyan EPZ clothing sector, 2000–2007

	2000	2001	2002	2003	2004	2005	2006	2007
Number of enterprises	6	17	30	35	30	25	25	22
Employment (number)	5,565	12,002	25,288	36,348	34,614	34,234	31,317	28,506
Expatriates (number)	211	282	630	820	753	720	584	460
Exports (US$ million)	30	55	104	146	221	195	207	205
Investment (US$ million)	16	48	88	128	108	132	143	123

Source: Author's computations based on EPZA Annual Reports

While the Kenyan clothing export market is dominated by a few large firms, a majority of which operate under the EPZ programme, there are thousands of micro and small enterprises that mainly produce for the domestic market. The large producers use modern industrial machines and employ a mass production type work organisation, while many of the small firms use simple electric or foot-powered sewing machines. A wide range of goods are produced including jeans, T-shirts, polo shirts, sports wear, shorts, track suits, women's tops and trousers. In addition, firms produce uniforms, baby wear, promotional materials and undergarments.

Most of the firms in the export-oriented sector do not undertake value adding activities such a design or procurement of key raw materials. Instead, such activities are conducted by customers, agents or retailers, who specify the designs and sources of raw materials for the factory to produce a prototype. This is sent to the buyer for approval before an order is confirmed. In a few cases, firms work together with buyers or agents to design a garment product to be produced (Phelps *et al.*, 2009). However, this is more common among firms registered as non-EPZ as opposed to EPZ firms.

Undoubtedly, AGOA has had a critical impact on Kenya's global clothing exports. This non-reciprocal trade agreement between the USA and 38 sub-Saharan African countries covers around 7,000 product lines. The original agreement ran from 2000 to 2008, but was subsequently extended to 2015. Kenya was the first country to become eligible for AGOA preference, in 2001, and it is among the 26 countries that enjoy duty free access related to clothing manufacture. Moreover, as a less developed country, Kenya benefits from a special rule requiring only a single transformation in apparel products (otherwise known as the derogation of the rule of origin), initially intended to run until 2004 but then extended to 2007 and now to 2012.[9] Studies show that the country's clothing exports grew from virtually nothing to US$221 million between 2001 and 2004 (Kaplinsky, 2008; McCormick *et al.*, 2006). More than 80 per cent of clothing exports were destined for the US market under the AGOA preferential scheme. After the decline of Kenya's largely indigenous and local market-oriented clothing industry, which had developed before the 1980s, the industry re-emerged as an export-oriented, foreign-owned industry as a direct result of this scheme (Phelps *et al.*, 2009).

Another factor that contributed to the growth of the country's garment industry was the quantitative restrictions imposed by major importing countries under the MFA. While the quota system was in place, entrepreneurs in countries restricted by quotas found ways to exploit the system. They established factories in countries with a low level of quota utilisation, such as Kenya, and in some instances helped in the countries' industrialisation process. With the removal of quotas, however, it is no longer lucrative to continue producing in these countries, and as a result firms began to close down and consolidate their operations in their parent country. Although Kenya has held on, in other countries the clothing industry stimulated by foreign investors was wiped off the industry map once these investors pulled out.

Effects of MFA termination on working conditions

Following the termination of the MFA, the competition from more established producers, particularly China and India, has become more intense (Kamau, 2007; McCormick *et al.*, 2006). Kenyan firms allege that buyers have become more stringent with their production requirements and lead times as they now have a wider selection of suppliers from whom to source their products. Similarly, the firms are being asked to match cut-make-trim (CMT) prices with those being offered by China, if buyers are to continue sourcing from them. The competitive environment has necessitated a change in production strategies, which have included lay-offs, casualisation of labour contracts, setting targets, and lower wages and piece rate payments in order to meet the requirements of buyers.

Evidence has shown that garment-producing countries have been affected differently by the termination of the MFA, depending on their level of industrial competitiveness, factor endowment and marketing connections. As predicted, there have been job losses in sub-Saharan Africa, with a more detrimental impact in low-income countries, where workers are not able to find other jobs elsewhere when retrenched. Analysts feel that the actual impact of MFA termination has not been felt to its fullest because the major importers – the USA and EU – are exercising safeguards negotiated during China's accession to the WTO. Nonetheless, countries such as Kenya have been gradually losing their market share in the USA (Kamau, 2007).

Downsizing and casualising of employment

Following the MFA termination, demand in the global market became more uncertain and flexible. This meant that firms had to 'flexibilise' the workforce to adjust the numbers employed in the production process according to demand. Given the seasonality of garment production in this industry, it has become extremely expensive for firms to maintain production workers on a permanent basis. Workers – especially tailors, who constitute the bulk of the labour force – are recruited on contractual terms (Phelps *et al.*, 2009). Out of the ten firms in our sample, seven indicated that they had shifted from permanent to contract arrangements since 2004. This appears to be more common in the exporting than in the local (non-exporting) firms.

Most women workers in the industry are engaged on short-term contracts and as soon as an order is completed they are laid off. Whereas male workers are able to secure alternative employment during the off-peak season, women usually opt to stay at home. The casualisation of the labour force also precludes workers from bargaining for social security provisions ordinarily obtained through trade unions.

At the same time, real wages in the industry have been declining since 2005. According to respondents from firms, this was caused by the buyers, who are continuously pushing for lower prices. In response, firms are forced to lower costs of production, the most common being labour (McCormick *et al.*, 2006). The practice has been that firms lay off all production workers when the season is low and then advertise the same positions, but at lower pay. A closer look at the wage rates for different categories of workers in the garment industry indicates that monthly average wages declined, particularly for production workers, between 2003 and 2008 (Table 4.2).

The average monthly wage for garment workers in Kenya has been above the national poverty line, indicating that working in the garment industry on average helps to reduce poverty (Omolo, 2006). In 2003, for instance, a supervisor earned on average US$146, while an operator earned

Table 4.2 Average monthly wages of garment workers in US dollars

	2003	2006	2008
Manager	680	652	675
Other officer	170	175	172
Engineer	237	231	210
Supervisor	146	124	120
Operator	77	70	68
Helper	67	58	55

Source: Author's computation from EPZA Annual Reports

US$77 and a helper US$67. At that time the poverty line in Kenya was estimated as US$43.3 per month in urban areas. Wages in EPZ firms were on average 20 per cent lower than in non-EPZ firms. This is due to the fact that the EPZ firms peg their salaries to the national minimum wage guideline. In 2008, however, while the national poverty line was estimated to be US$46.8 per month, wages in the garment industry fell to approximately $120 for supervisors, $68 for operators and $55 for helpers, a downward trend that started in 2005. Most of the firms attributed the decline in wage rates to the increased competition in both the domestic and export markets caused by the termination of the MFA.

Gender discrepancy in the clothing industry

The gender discrepancy in wage levels for male and female workers doing comparable jobs is small, especially when factors such as age, education and experience are taken into account. In the production section, however, female workers are mainly clustered in lower skilled operations and thus are paid less. In most firms, women work as either operators or helpers. It is extremely rare to find women working as production managers or supervisors, who earn salaries varying from 2–10 times that of the average operator.

According to Phelps *et al.* (2009)

> … the vast majority (96%) of the workers in the Kenyan EPZ clothing industry are involved in direct production even though there are a sizeable number of white-collar jobs. Many of the key positions are held by male expatriates from the home country of the parent transnational corporation.

Moreover, the majority of direct production workers are on casual or temporary contracts – with implications not just for their job security but also for the nature of labour relations and generation of skills in the industry. This condition has been exacerbated by the increased competition following MFA termination.

Women are an easy target for retrenchment in the industry partly because they are considered to be more compliant than their male counterparts, but also because they constitute a majority of the workers in the industry. One manager in an EPZ firm confided that 'female workers are more efficient in carrying out assembly work and that is the reason why firms employ more women that men in the operation section'. Moreover, when women were retrenched, they were unlikely to take a firm to industrial court or to the union – a common phenomenon with male workers. Male workers, it was argued, resisted retrenchment and might even stage a demonstration in the factory, something that female workers were unlikely to do. Similarly, when retrenched, female workers would not go looking for employment elsewhere outside the industry; so when firms needed them, a majority would return to the factory. A firm was therefore assured of recruiting the same group of workers when it got big orders. Male workers tended to move on and find employment in other sectors, particularly in construction, so that when a firm required more workers it could not be sure that most of them would return to work.

Most of the women interviewed stated that they relied on the salary earned in the industry to support their immediate families as well as their extended families in the rural areas, as illustrated in the three examples below.

> **Jane** was born in 1976 and is married with three children. She has worked as a helper in an EPZ firm since 2005 on a contract basis earning US$73 per month. She said that she sends about $10 to her parents, who live in a rural area, to buy food and farm inputs. From time to time she also supports the education of her siblings by sending them school fees. This is in addition to financing the food and housing budget in her house. (*Worker interview, 5 June 2008*)

> **Magdalene** is 21 years old and works as an operator in a local (non-EPZ) firm earning US$50 per month. She remits about $6.5 every month to her siblings who live in rural areas. In Nairobi, Magdalene shares a small house with two other colleagues who are also single and she walks to work. This keeps her housing and transport expenditure low. (*Worker interview, 14 June 2009*)

> **Helen**, who works in the finishing section of an EPZ firm, said that she supports her family with about US$12 every month. She has one child who stays at home with her parents and therefore she is obliged to remit

some money home to cater for her child and other family members. (*Worker interview, 12 December 2008*)

Women interviewed were concerned about the meagre pay they earned in the industry; they also lack job security. Most of them said that, given that they were unlikely to find employment elsewhere, they and their families were likely to slip into abject poverty if they were retrenched.

Work intensity and conditions of work

Working conditions in the industry have drastically deteriorated since 2005, particularly among the exporting firms. Workers have to put in long hours in order to meet targets set by the firm. This emanates from strict demands by the buyers whereby non-price factors such as short lead times and quality deliveries have become a key consideration in placing orders. Even though the majority of buyers claim to be adhering to ethical sourcing practices, it is reported that they are increasingly demanding high quality garments produced within a relatively short period of time and at the lowest price possible. In order to meet these requirements, workers must be willing to work long hours. In some cases, they put in more than ten hours of work a day, six days a week, with a 30-minute lunch break. It is common practice for workers to leave the factory at 8pm, yet they do not earn any overtime pay.

Apart from the other effects of long working hours, fatigue exposes workers to serious hazards such as inadvertent slipping of fingers or hands into the stitching machines. Female workers, who are also generally expected to play the role of homemaker, are unlikely to perform these duties well. It is therefore not surprising that the great majority of female workers in the industry are young and single. Once they get married, their chances of remaining in the industry get smaller. Firms are reluctant to give maternity leave to female workers, a factor that contributes to most of them leaving employment when they get pregnant.

There have been allegations of gender-based harassment by supervisors and those charged with recruiting female workers. However, our interviews did not find adequate evidence to support this allegation. In some cases, respondents claimed that women were coerced into sexual relationships with supervisors in order to remain in employment, but this allegation could not be confirmed.

Declining unionisation

Most workers interviewed were not members of a trade union which could have represented them when their rights were allegedly violated. According to Omolo (2006), most of the clothing firms blatantly violate laws that protect employees' rights to associate and join a union. Even though trade unions are allowed, the firms discourage workers from joining. A person who admits to being a union member may have difficulty finding employment, and in some cases union membership was used as grounds for firing workers.

The fragmentation of production and casualisation of labour mean that workers are increasingly unable to seek legal redress. When on contract during the peak season, workers who previously unemployed have to stick to delivery schedules agreed by the firms, giving them no time to join a union. In any case, insecure employment prevents trade unions from demanding any kind of social welfare and employment security measures from producers. Because of seasonal employment, workers do not have incentives to join a trade union and instead are willing to work long hours to compensate for off-season unemployment.[10]

If workers do join unions, the management may refuse to deduct union contributions and instead ask those who want to contribute to do it on their own. In an interview with an official of the Tailors and Textiles Workers Union (TTWU), it was alleged that firms were 'playing games' with the union so that they would not get the 51 per cent of unionised workers necessary to oblige the firm to sign a recognition agreement. In one case, the TTWU had obtained membership of more than 51 per cent in a particular firm, but the firm still declined to sign a recognition agreement. Although managers claimed that they did not object to workers joining the union, trade union officials and workers alleged that it was a challenge for workers to join because in practice union members were the first to be fired when retrenchment was effected. On several occasions, workers alleged that union officials were easily wooed by the management when it signed a recognition agreement, and instead of championing workers' interests they were just out to enrich themselves.

It was not possible to confirm most of these allegations, but one thing that emerges is that there is a high level of mistrust between management and trade unions, management and workers and, worse, between trade unions and workers. Perhaps more education by the Government with regard to the roles played by each party might be beneficial. NGOs are unlikely to win the confidence of all stakeholders as they are often perceived to be biased.

Conclusion

As shown by this case study, the clothing industry continues to play a significant role in Kenya's development and poverty reduction agenda. It provides job opportunities for a segment of the population that cannot easily find alternative employment. More importantly, the study shows how women workers support both their immediate and extended families through remittances. This undoubtedly provides an appropriate avenue for poverty reduction. The recent growth of an export-led clothing industry as a result of AGOA and the MFA has had positive effects on the welfare of Kenyans.

However, the end of the MFA in 2005 has altered the landscape. Generally speaking, competition has intensified in both the domestic and export markets, particularly from relatively more efficient producing countries such as China and India. Indeed, as noted earlier, nearly 10,000 workers lost their employment in the export-oriented segment in Kenya during the two years following the termination of the MFA.

Kenyan firms have responded to these challenges with a number of strategies: closure, cost cutting, casualisation of labour contracts and increased efficiency. These actions have had adverse effects on women, who have been the primary victims of lay-offs due to the sheer fact of their numbers. Equally, women are perceived as more complacent than men when it comes to labour issues and are therefore easier to deal with from the firm's point of view. While managers argue that they use women workers because of their aptitude for assembly line production processes, critics say it is mainly because women are less likely to find employment elsewhere in the manufacturing sector and will work under harsh conditions without complaining. They are also unlikely to be members of a trade union, as they are working to feed their families, a characteristic that is not as common among male workers.

Female workers in the clothing industry still hold their employment in high regard, as the majority of them did not have a formal job prior to joining the industry. More importantly, they say that through employment in this sector they have improved their livelihoods significantly. Their earnings have enabled most of them to support their immediate and extended family members, though changing employment conditions are becoming a threat to fulfilling this objective.

It is therefore imperative for the Government to work closely with all stakeholders to ensure that female workers' rights are not violated in the name of increased competition arising from MFA termination. Firms can adopt other survival strategies without hurting the labour force. Perhaps further research into alternative approaches to combating competition needs to be undertaken.

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