ESA CSO Statement to the 11th RNF Nairobi 14 – 16th May 2007

WE, members of civil society organisations from Eastern and Southern Africa met in Nairobi, Kenya from 12 to 13 May 2007. The main purpose of our meeting was to review the Economic Partnership Agreement negotiations and provide a position that will feed into the 11th Regional Negotiating Forum. We wish to make the following observations:

Development

Our understanding of the stated intention of the Cotonou Partnership Agreement (CPA) which is the basis of the EPAs negotiations is that the CPA will bring sustainable development and contribute to poverty eradication. Article 34.1, of the Agreement states, for example:

Economic and trade cooperation shall aim at fostering the smooth and gradual integration of the ACP States into the world economy, with due regard for their political choices and development priorities, thereby promoting their sustainable development and contributing to poverty eradication in the ACP countries.

We take this to mean that an EPA is an instrument for sustainable development. This means therefore, that the development dimension has to be reflected in all areas of negotiations. This is acknowledged by the Joint ESA-EC Report (4th April 2007) of negotiations of an EPA which explicitly states that: "*In terms of substance of the negotiations, the key priority for the ESA region is the development component of an EPA, without which there will be no EPA*." The joint ESA-EC report goes further to state that negotiations can only be concluded: "*on the basis of agreed agenda and roadmap provided that all outstanding issues are fully addressed*." It is our assessment that the outstanding issues are far from being addressed.

Agriculture

EPAs will undermine food security in ESA, a region which is predominantly dependent on agriculture for livelihoods. This will worsen the impact of HIV/Aids in the region, thereby deepening the poverty levels. We therefore call upon ESA countries to insist on a deal that guarantees food security and preserves livelihoods

The ESA agricultural sector is threatened by EU agriculture subsidies as it is dominated by peasant production, largely dependent on natural rainfall patterns therefore vulnerable to natural disasters, with poor or non-existent infrastructure, poor access to modern energy and inadequate credit lines. In contrast, the EU Common Agricultural Policy (CAP) has provided subsidies to EU farmers since 1962, which guarantee minimum price for crops, export subsidies, and development aid to diversify the rural economy.

Export subsidies have made it easier for Europe to dump excess production in developing country markets at low prices resulting in destruction of local livelihoods. ESA countries will not survive competition with the EU producers in a Free Trade Area arrangement.

We note with interest that the WTO has set 2013 as an end date for the elimination of all forms of agricultural export subsidies, but ESA countries have put no pressure on the EU to eliminate all forms of trade distorting subsidies. In particular, Article 95 of the draft EPA text, while dealing with subsidies and domestic support, makes no mention of time-bound elimination of export and domestic subsidies. As civil society we are worried that relying on the WTO process for an automatic feed-in on the subsidies issue can be a strategic blunder. It provides no effective obligation for the EU to eliminate trade-distorting subsidies and leaves ESA producers exposed.

There is significant evidence of the link between food security policies and local production, yet this is the precise area of production that will be eroded as small scale farmers abandon agriculture due to their inability to compete. Any apparent gains in reduced prices from cheap subsidised imports are lost through costs of unemployment and declining local agricultural production base and demands on scarce foreign exchange to purchase food.

We are of the view that in the context of the extreme and longstanding inequalities between EU and ESA agricultural production systems, there will be limited or absent returns to local and smallholder producers from an EPA unless they are deliberately protected and invested in under the EPA. Furthermore, we call on the EU to eliminate all forms of trade distorting subsidies. The chapter on agriculture in the draft EPA text would need to specify the time-bound elimination of all forms of trade-distorting subsidies by a credible date.

Market Access

The objective of ESA in this regard should be to improve market access and market entry for their products. This requires *inter alia* addressing the issues of high tariff, tariff peaks and tariff escalation, Non Tariff Barriers including SPS and TBT, and developing a more simplified and transparent tariff quota regime. ESA should continue to call for market access for its products and simplified rules of origin. There must be facilitation for ESA goods into the EU market.

EU-ACP trade cooperation should be founded on an approach that :

- Is based on a principle of non reciprocity, as instituted in the Generalised Systems of preferences and Special and differential treatment in the WTO.
- Protects ACP producers, domestic and regional markets
- Excludes pressure for trade and investment liberalisation; and
- Is founded on the respect for and supports the space of ACP countries to formulate and pursue their own development strategies.

ESA countries will only be able to take advantage of market access if it is accompanied by reform of rules of origin and much greater support for overcoming supply-side constraints. Review of tariff liberalisation must be linked to development rather than to time frames. We however, strongly believe that ultimately the success and failure of EPAs negotiations has to be measured not mainly against market access of interest to developing countries, but rather against the ability of the major trading partners to commit themselves on development.

Services

The EU has promoted extensive liberalisation of services in ESA countries under the GATS by requesting opening up of service sectors. The CPA (Article 41.4) states: "The Parties further agree on the objective of extending under the economic partnership ... the liberalisation of services in accordance with the provisions of GATS and particularly those relating to the participation of developing countries in liberalisation agreements." In 2004, the EU had proposed that LDCs and other unspecified vulnerable states should not be required to further open their markets. Instead, they would "benefit from improved access to developed and rich developing markets..." (European Commission, 2004). In contrast, the liberalisation of services and the opening of markets to foreign investors is part of the EPA negotiations and EPAs are expected to liberalize 'substantially all trade'.

As Civil Society organizations we propose great caution over making any commitments especially in key sectors such as the health sector. This caution was expressed at the 4th Ordinary Session of the AU Conference of Ministers of Trade in April 2006, where the ministers:

"noted the intention of the European Community to seek extensive opening of African service sectors. We re-commit ourselves to pursuing the architecture under the WTO General Agreement on Trade in Services, of a positive list approach, and underscore the absolute need for a carefully managed sequencing of services liberalisation in line with the establishment of strong regulatory frameworks. We therefore shall not make services commitments in the EPAs that go beyond our WTO commitments and we urge our EU partners not to push our countries to do so."

We therefore urge ESA countries not to make any services commitments in the EPAs that go beyond their WTO commitments and that EU partners not push for extensive liberalisation that does not recognise the absolute need for a carefully managed sequencing of services liberalisation, preceded by the establishment of strong regulatory frameworks.

Trade Related Issues

On TRI, we reaffirm the CSO observations that Singapore issues should not be negotiated in bi-laterals as ESA countries have not developed adequate capacity to deal with the EU as an equal partner. As CSOs we reiterate the position taken by African Ministers of Trade that the issues of investment policy, competition policy and government procurement be kept outside the ambit of Economic Partnership Agreements.

Financial implications

Implementation of the EPA will have financial implications for the ESA countries, such as the losses in tariff revenue. Adjustment costs will arise from the direct economic measures, from the institutional demands on implementation and the spill over impacts of trade measures, including in areas such as health. Our experiences of the Structural Adjustment Programmes in Africa indicate that such costs are often not recognised, planned for, or funded.

In response to the concerns of ACP countries with regard to the costs of implementing the EPAs, the EC has pledged to increase the amount pledged under the next EDF funding cycle (2008-13, the 10th EDF) to €22.7bn. While this figure seems high, it is in fact a very small increase on the €21.3bn estimated to be needed for the 10th EDF funding cycle to cover the existing aid portfolio, even without the EPA. Hence the 10th EDF will provide little additional funding. It is unlikely that EU will cover EPA adjustment costs from its existing aid budget.

Where this leaves ESA countries with unmet adjustment costs to finance from own revenue, there is a potential for revenue to be diverted from the provision of essential services. We therefore call for a doubling of development aid to meet additional resource cost of implementing the EPA.

Although there are indications that the EC wishes to take compensatory measures to cover the costs of implementing an EPA through the EDF, the lack of significant additional resources implies that this will come from diversion of existing funds, including those allocated to essential services. It would appear that this uncertainty needs to be cleared before the EPA is concluded. Therefore, we call upon ESA countries to insist on an EPA development facility which is not linked to the EDF.

The cost of implementing EPAs in ESA countries needs to be estimated, and the sources of funds to meet this agreed on. It is important that the EPA includes predictable funding of an EPA adjustment facility, as proposed by the AU trade Ministers.

With limited sources of domestic revenue and limited tax bases, tariffs are one key source of revenue. According to the World Bank, tariff revenues in sub-Saharan Africa average 7-10% of government revenue. ESA countries thus rely on import taxes to contribute to government revenue to finance public services. If tariffs are eliminated on EU imports this would seriously lower tariff revenues for ACP. Most ESA countries rely on import duties to raise government revenue. The loss to public revenue can be significant, with potential consequences for spending on essential services.

In a bid to offset revenue losses from tariff cuts, some countries may cut public spending, or resort to other forms of taxation, including less equitable taxes such as value-added tax on consumers, that impact more heavily on poor households. Revenue loss acts as a further pressure on governments to transfer the ownership and running of state utilities to the private sector.

Negotiation process

We observe with dismay that African governments are being bullied by the EU, and they continue to ignore technical advice (reviews) emerging from African think tanks that they are not ready to sign EPA by December 2007. This undermines the credibility of existing impact assessment studies that have shown that EPAs will have a negative impact on poverty eradication initiatives and on processes like regional integration, harmonization of national and regional fiscal policies and other related processes directed at domestic demand driven growth.

We note with concern that the space for regional CSOs is not being guaranteed in the RNF. We call on the COMESA secretariat to restore the regional CSOs desk with full speaking rights.

Conclusion

We, CSOs in ESA, reiterate that EPAs should be an instrument to foster the development of ESA countries. Their scope and content should be determined by this objective. Given the level of development and developmental needs of ESA countries, ESA should continue to press for Special and Differential treatment as part of the grand bargain in the overall negotiations. S & D should be recognised as a right and not treated as a favour.

Given the asymmetries among member states, it is patently unrealistic to have a one size fits all approach to negotiations. Our countries need space to develop institutions and capacities necessary to take advantage of market access available in the global market place as well as their own domestic and regional markets. NO COUNTRY MUST BE WORSE OFF AFTER SIGNING AN EPA.