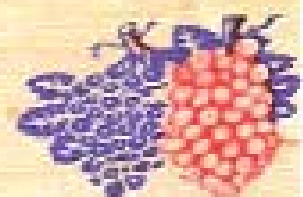

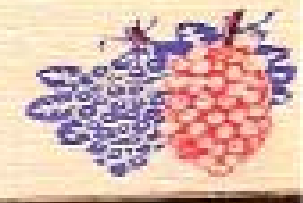
 Trade 



 is about 



 people 



 not just 



 profit 





**HEALTH AND TRADE ADVOCACY TEAM  
[HTAT - KENYA]**

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# CONTENTS

<b>LIST OF ABBREVIATIONS</b> .....	<b>4</b>
<b>ACKNOWLEDGEMENTS</b> .....	<b>6</b>
<b>1. EXECUTIVE SUMMARY</b> .....	<b>7</b>
<b>2. INTRODUCTION</b> .....	<b>8</b>
2.1. Objectives .....	8
2.2. Overall co-ordination and review .....	8
2.3. Implementing Agency .....	8
2.4. Time Frames .....	9
<b>3. THE TEAM</b> .....	<b>10</b>
3.1. Constance Georgina Walyaro .....	10
3.2. Ezekiel Mpapale .....	11
3.3. Patrick Mubangizi .....	12
<b>4. POSITION PAPERS</b> .....	<b>13</b>
<b>5. PLATFORMS FOR CONTRIBUTION</b> .....	<b>14</b>
5.1. Ecofair, Slow Farming, Sound Farming Meeting .....	14
5.2. The Hidden Revolution in Africa: Issues in African Agriculture and Agro - Business .....	14
5.3. The 2nd IGWG Draft Strategy and Global Plan of Action .....	15
5.3.1. The African Civil Society Coalition on IGWG [1] Submission on the IGWG Draft Global Strategy and Plan of Action .....	15
5.3.2. Health Action International Africa (HAI Africa) Presents its Submissions on the 2 <sup>nd</sup> IGWG Draft .....	16
5.4. Regional Workshop on the Trade and Economic Impacts and Implications of ESA EU and SADC EPAs .....	16
5.5. The Kenya Biosafety Coalition [KBioC/ KBC] .....	17
5.6. Global Youth Coalition on HIV/AIDS [GYCA] Update .....	20
5.6.1. Planning for the Mexico International AIDS Conference 2008 .....	20
5.6.2. Youth-Adults Commitments Follow Up .....	20
5.7. 'Vina na Maana' (Rhymes with meaning) .....	21
5.8. International Stop EPAs Day .....	21
5.9. HTAT Kenya Stood Up Against Poverty .....	22
<b>6. CREATING LINKAGES &amp; INCREASING AWARENESS</b> .....	<b>23</b>
<b>7. RESEARCH, PREPARATION &amp; DISTRIBUTION OF RELEVANT INFORMATION</b> .....	<b>24</b>

7.1. The Second ESA CSOs' Joint Statement on ESA-EU Economic Partnership Agreement .....	24
7.2. CSOs' comments on ESA EC text to ESA negotiators .....	24
7.3. Critique's on EPAs texts in relation to Intellectual Property (TRIPS) and Services .....	26
7.3.1. SOMO - Technical analysis of the problems resulting from liberalization of services in EU- ACP EPAs .....	26
7.3.2. CIEL .....	27
7.4. Update on Impacts and Implications of ESA-EU & SADC-EU EPAs in Trade and Health, Ezekiel Mpapale .....	27
7.5. Draft Joint Texts – EPAs Between ESA Countries on One Part and the EC and its Member States on the Other Part .....	28
7.6. Comments to ESA Sensitive Products list .....	29
7.7. Human Rights Guidelines for Pharmaceutical Companies in Relation to Access to Medicines .....	29
7.8. News Flashes .....	30
7.8.1. Kenya Biosafety Bill Faces Opposition .....	30
7.8.2. Kenya Parliamentarians Could Pass Biosafety Bill .....	30
7.8.3. EPA Flash News .....	30
7.8.4. Kenya: Legal Obstacles Emerge Over Free Trade Deal With Europe .....	31
7.8.5. Parliament Fails to Legalize GMOs .....	31
7.8.6. The Kenya Human Rights Commission Sues Government for Human Rights Abuses .....	32
7.8.7. EPA Flash News .....	33
7.9. European Parliament Ratifies TRIPS Amendments .....	33
7.10. ESA Countries Economic Partnership Negotiations .....	34
7.11. GAIN Report - Kenya Biotechnology Report 2006 .....	34
<b>8. CONCLUSION .....</b>	<b>36</b>
<b>9. PICTURE REFERENCE .....</b>	<b>37</b>

## LIST OF ABBREVIATIONS

ACP	-	African, Caribbean and Pacific
AoA	-	Agreement on Agriculture
AU	-	African Union
CBD	-	Convention on Biological Diversity
CEDAW	-	Convention on the Eliminations of All Forms of Discrimination Against women
CIPIH	-	Commission on IP, Innovation and Health
COMESA	-	Common Market for East and Southern Africa
CPA	-	Cotonou Partnership Agreements
CRC	-	Convention on the Rights of the Child
CWF	-	Citron Wood Foundation
ECOSOCC	-	Economic Social and Cultural Council of the Africa Union,
EMCA	-	Environmental Management Coordination Act
EPA	-	Economic Partnership Agreement
ESA -	-	East and Southern Africa
EU	-	European Union
G/LMOs	-	Genetically/ Living Modified Organisms
GSI	-	Gender Sensitive Initiatives
GYCA	-	Global Youth Coalition on HIV/AIDS
HAI	-	Health Action International
HTAT K	-	Health and Trade Advocacy Team - Kenya
IAC	-	International AIDS Conference
ICESCR	-	International Covenant on Economic, Social and Cultural Rights
ICCPR	-	International Covenant on Civil and Political Rights

IGWG	-	Intergovernmental Working Group
IYPF	-	International Young Professionals Foundation
KBioC/KBC	-	Kenya BioSafety Coalition
KeFoSPAN	-	Kenya Food Policy Advocacy Network
KESSF	-	Kenya Small Scale Farmers Forum
KHRC	-	Kenya Human Rights Commission
LDC	-	Least Developing Country
MDGs	-	Millennium Development Goals
MYF	-	Mexico Youth Force
ODM	-	Orange Democratic Movement
OIYP	-	Oxfam International Youth Parliament
RDA	-	Research, Development and Access
SEATINI	-	Southern & Eastern African Trade Information & Negotiations Institute
TARSC	-	Training and Research Support Centre
TRIPS	-	Trade Related Intellectual Property Rights
UDHR	-	Universal Declaration on Human Rights
UNGASS	-	United Nations General Assembly Special Session on HIV/AIDS
WHO	-	World Health Organization
WIPO	-	World Intellectual Property Organization
WTO	-	World Trade Organization



## ACKNOWLEDGEMENTS

The Health and Trade Advocacy Team - Kenya wish to express their gratitude to SEATINI who continue to monitor and support the implementation of the national advocacy plans in co-operation with TARSC and other EQUINET SC members.

The author also wishes to sincerely appreciate Ezekiel Mpapale and Patrick Mubangizi who have made a fantastic contribution as part of this team, and all the partner organizations that continue to support this initiative.

**NATIONAL NEWS** DAILY NATION  
Tuesday October 16, 2007



# The Economic Partnership Agreements (EPA) is Europe's new Grip on Kenya

*Ask your MPs what they are doing to stop EPA*

The Kenya government is currently negotiating the Economic Partnership Agreements (EPAs) with the European Union (EU), a process that should be concluded by 31st December 2007.

**FACT 1:** The EPA proposes to liberalize **SUBSTANTIALLY ALL** sectors of our economy.

**FACT 2:** According to analysis carried out by the Ministry of Trade, 65% of Kenyan industries will be vulnerable to unfair competition with the EU. These industries include food processing, textiles, paper and printing. Under the EPA, over **100,000 KENYAN WORKERS** in the Manufacturing and Industrial sector will lose their jobs. This would seriously undermine the government's efforts to create 500,000 jobs a year.

**FACT 3:** **OVER 5 MILLION KENYANS** who depend on maize, wheat, rice and dairy farming will also lose their livelihoods if the government does not protect them.

**FACT 4:** Loss of livelihoods and employment will contribute to the violations of the right to life, the right to work, the right to food, the right to education, the right to health, the right to adequate housing and the right to live a dignified life.

**FACT 5:** The EPA makes a mockery of the Human Rights obligations of the Kenyan government and the EU to promote universal respect for, and observance of fundamental human rights and freedoms. The Kenyan government has an obligation to its citizens to respect and protect life as explicitly stated in the Constitution and to achieve the FULL realization of the rights enshrined in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.

**IS THIS WHAT YOU REALLY WANT FOR KENYA?**

*Dama ya Tutete Haki*  
KENYA HUMAN RIGHTS COMMISSION

**Stop Think & Resist**

Cellphone: 0722-264497, 0733-629034  
website: [www.stopthinkresist.org](http://www.stopthinkresist.org)



## 1. EXECUTIVE SUMMARY

SEATINI with TARSC under the EQUINET umbrella are carrying out work on the health and trade theme ([www.equinet africa.org](http://www.equinet africa.org) and [www.seatini.org](http://www.seatini.org)). This work involves skills building, research and information exchange on the effects of trade agreements on health. In 2007 this work focuses on key trade and health issues, including Intellectual Property Rights protection in the TRIPS agreement and access to medicines, the Economic Partnership Agreement (EPA) being negotiated between East and Southern Africa countries and the European Union and their implications for health and trade agreements promoting the liberalisation of health care services.





## **2. INTRODUCTION**

SEATINI and TARSC under the EQUINET auspices held a regional training workshop on trade and health in Bagamoyo Tanzania from the 31<sup>st</sup> of August to 1<sup>st</sup> September 2007. The workshop drew participants from four East and Southern African countries namely, Kenya, Tanzania, Uganda and Zimbabwe. During the workshop participants with the assistance of the organizers came up with national advocacy plans to meet media, officials, parliamentarians and other key stakeholders to achieve agreed outcomes on trade and health. SEATINI continues to monitor and support the implementation of the national advocacy plans and give support to the trainees, in co-operation with TARSC and other EQUINET SC members. A grant of US \$1000 [1<sup>st</sup> tranche] has also been provided to support the country team in implementing its advocacy plan [Preparation & Dissemination of Materials, Communication and Networking, Transport and Per Diem] and complements resources contributed by the recipient institutions.

### **2.1. OBJECTIVES**

The objectives of the programme of work under this co-operation and grant build on the work to date and aim to implement a national advocacy plan, including with media, officials, and parliamentarians to achieve agreed outcomes on the TRIPS and EPAs on health. Specifically this plan will be by February 2008

1. Audit, identify and advocate clauses for inclusion to ensure that trade agreements recognize and protect the right to health and public health policies and principles
2. Strengthen and identify and advocate for options to enhance civil society participation in mechanisms reviewing health and trade agreements
3. Inform and engage the public by disseminating health and trade information in accessible ways, including through media and public forums and particularly on TRIPS and EPAs
4. Support the country team's attendance and input at specific policy forums in 2007 to advance the health issues in WTO agreements and the EPA

### **2.2. OVERALL CO-ORDINATION AND REVIEW**

During the programme the country team will make input at relevant policy platforms for the process, in Kenya and the region and will provide reports on work done to SEATINI/EQUINET:

- November 2007 a brief narrative report on the work done, outputs and outcomes.
- February 2008, the final report on work done as well as the lessons learned and suggestions for future work.

### **2.3. IMPLEMENTING AGENCY**

It is understood that all funds provided for the programme of work will be received and administered by Citron Wood Foundation (CWF). The recipient of this overall grant CWF shall remain responsible for co-coordinating all project reporting under this agreement, for

forwarding to SEATINI/EQUINET all progress and financial reports at agreed dates and for forwarding to SEATINI/EQUINET any products produced under this programme of work.

The programme leader for the work is Connie Walyaro CWF who is responsible for coordinating all work and reporting under this grant.

The project is being implemented in co-operation with SEATINI, and with institutional co-operation with other EQUINET institutions as relevant.

## 2.4. TIME FRAMES

The programme of work is being carried out between September 2007 and February 2008



### 3. THE TEAM

#### 3.1. CONSTANCE [CONNIE] GEORGINA WALYARO

CWF, PRESIDENT; GYCA, TASK FORCE; IYPF, EA BOARD OF DIRECTORS; OIYP, AP



In 2004, OIYP selected me from over 2000 of the world's brightest young leaders, to join their global network of social change leaders and activists working to build a peaceful, sustainable and equitable world.

In 2005, I was selected for the OIYP Trade Justice Project. Based on my work and experiences, the OIYP team in Sydney identified me, as an Action Partner who they believed would make a fantastic contribution to

this project, and I have! The analysis in my action plan of the international trading system and especially on how i) trade liberalization contributes to the decline of economic growth and increasing poverty and ii) expanded protection for intellectual property rights continues to enable many pharmaceutical companies to maintain high prices for patented pharmaceuticals, which in turn ensures that medication is not affordable to the majority of people living with HIV/AIDS, was exactly the kind of perspective that they wanted participants in this project to examine further. As an affiliate of the OIYP Trade Justice Project I received comprehensive training in international advocacy, trade justice and human rights issues (DTP and University of New South Wales, Australia); a thorough understand of how international trade affects local communities, and skills and contacts to take action. The months leading up to the sixth WTO ministerial in Hong Kong, China 2005 and XVI International Aids Conference [IAC] Toronto 2006 presented opportune times for increased action.

Through the CWF Trade Justice Project Action Plan, we are not only increasing understanding and creating awareness about how the international trading system and international human rights framework operate and how to advocate within this complicated system; we are also ensuring that participants know how to effectively integrate human rights within development programmes, with the aim of strengthening accountability and empowering each other as both principals and effective agents of change for their own development in the struggle for trade justice.

Our activities have been integrated into our existing projects, campaigns, networks and partnerships, and include: active involvement and presentations at key events, organizing training workshops and awareness initiatives, lobbying and community mobilization, the BIG Noise [www.maketradefair.com](http://www.maketradefair.com), research, collecting case studies and sharing experiences, and organizing stakeholders into groups with the capability to advocate and lobby for their rights, and where such formations already exist, to ensure they function effectively. E.g. KeFoSPAN

Key forums where I have made presentations and joined civil society actions and activities include:

- World Summit on the Information Society (WSIS)
- 6<sup>th</sup> WTO Ministerial - CWF had accreditation, I was head of delegation
- UNGASS Review Meeting 2006 & UNGASS Youth Summit. I was also the Media Representative - CNN Live, UN Radio, UNFPA Teleconference
- Meeting on ECOSOCC for East African CSOs
- International Aids Conference 2006 - Member of the Scientific Committee and the Toronto Youth Force at XVI
- Global Youth Assembly (2007)

*....as long as poverty, injustice and gross inequality persist in our world, none of us can truly rest.*  
**Nelson Mandela**

### **3.2. EZEKIEL MPAPALE**

#### **GSI, PROJECT OFFICER, ADVOCACY AND CONSULTANCY**

##### **WORK EXPERIENCE ON TRADE ISSUES**

- Trade Justice Campaign Organizer for Christian Aid two years experience. One of the few trained negotiator for Kenya on World Trade Rules (WTO), Economic Partnership Agreements (EPAs) and Cotonou Partnership Agreements under Kenya European Post Lome Trade (KEPLO TRADE)
- Advocating for the change of World Trade Rules and a fair playing field on the international trade issues each EPAs.
- **2007 May** - Participated in Regional ESA CSO's Consultative Workshop. Topic covered included; Areas of convergence by both ESA-EU in EPAs negotiations, NSAs concerns and issues of negotiations and discussions and consensus building on the areas of divergence.(Held at Silver Spring Hotel Nairobi, Kenya).
- **2007 April** - Participated in the EPAs Development Benchmarks and monitoring workshop. (organized by ECDPM, CUTS, and FES in cooperation with APRODEV at Safari Club Nairobi, Kenya).
- **2007 March** - Participated in Regional Trade Policy Analysis and Advocacy training with particular reference to EPAs. (Organized by Econews Africa at Kolping centre Nairobi, Kenya).
- **2007 February** - Participated in CSPP Training on Boxing Smart on EPA's; Identifying the least bad options (organized by CUTS NRB, Overseas Development Institute (ODI) and CUTS London, at Great rift Valley Lodge, Naivasha, Kenya).
- **2006 September** - Participated in the Regional Workshop strategizing on EPAs negotiations. (Organized by SEATINI Uganda at Botanical Beach Hotel Entebbe, Uganda).
- **2005 April** - Consulting Coordinator for Global week of Action, which was organized by Christian Aid. My speech was sent to Tony Blair and other world leader to stop pushing for free trade for the poor countries but fair trade.



- **2005 January- July** - Coordinated the “Big Noise Campaign in Western and Nyanza Province and collected over 20,000 signatures to be sent to Hong Kong during WTO negotiation December 2005.
- **2004 August** - Among the three people appointed from NGOs to participate in the International negotiation Training which was sponsored by European Union at Water Buck Hotel Nakuru. 20 Negotiators were trained including top officials from the Government and private sectors.
- **2004 July** - Coordinated the launch of Make trade fair in Kenya which is also known as “Big Noise” which is calling for the change of the World Trade Rules so that they can favor the developing countries. The campaign was organized by OXFAM GB.
- **2004 April** - Played a very big role in the formulation of the position paper in Joint Annual Review between ESA countries and European commission.
- **2004 March** - Among seven delegates appointed to represent Kenya on Mid Term Review (MTR) and country support programme paper and National indicative programme which was attended by delegates from seven East African and the horn of Africa countries, European delegates from the seven countries and National Authorizing officers who are the permanent secretaries from the finance ministries. This forum was held in Mombasa at Mombasa Beach Hotel.
- **2004 February** - Participated in Mid term Review process on National Indicative Programme (NIP) based on Joint Annual Review between Kenya and European Commission.
- **2004- 2005 June** - Appointed by Christian Aid London to Trade Justice Movement as organizer for Trade Justice in East Africa. Joined Kenya Civil Society Alliance working on World Trade Organization issues. Appointed on Governing Council committee of Kenya Civil Society Alliance, which is co-coordinated by Econews Africa.

### **3.3. PATRICK MUBANGIZI HAI, REGIONAL COORDINATOR**

Patrick is the Regional Coordinator for Health Action International (HAI Africa, [www.haiafrica.org](http://www.haiafrica.org)). Health Action International (HAI) is an independent, global network working to increase access to essential medicines and improve their rational use through research excellence and evidence-based advocacy.





## 4. POSITION PAPERS

HKAT has already prepared several draft position papers on health & trade issues in Kenya that have been submitted for review and publishing. This process is ongoing.

TRADE | JOHN OCHOLA The writer works for EcoNews Africa and the Kenya Civil Society Alliance

HERE is an old saying: "Give a man a fish and you feed him for a day, teach a man to fish and you feed him for life". Economic Partnership Agreements (EPAs) are the equivalent of Europe telling the fishermen (Africa) that if you don't give me your fishing net (tariff flexibility) you won't be able to sell any more fish to Europe (fish exports), and in return we will give you a European fish (aid) that you will have to apply and wait two years for. It may even have been created through tax from fish actually caught off the coast of Africa by Europe, packaged in Europe and sold in Europe.

Let me explain further. Michel and Mandelson ask: "How can we use trade to help ACP countries?" They would do well to go back to drawing board with regard to their trade relationship with Africa. They could start by reading the excellent book *Bad Samaritans* by Ha Joen Choig, which deals exactly with the sort of misguided thinking that drives the European Commission (EC) towards pushing the African, Caribbean and Pacific (ACP) countries to sign a free trade deal.

This view (called the "Washington Consensus") holds that free trade will encourage development and reduce poverty in Africa.

But a free trade deal will not "build stronger economies and break their trade preferences and basic commodity trade" as the EC claims. It will do the opposite. Direct competition between European manufacturers and subsidised farmers will put people out of work, increase food insecurity and create consumers for foreign goods.

The EC and the Kenya Government should take heed of lessons from our national and global economic history. Liberalisation brings about factory closures, not startups. Witness what happened in the cotton and dairy industries in the 1990s. Since then the Government has strategically raised import tariffs, along with investment, to revive both the dairy and the tannery industry. Just when the Government

## Everybody in the EU is pushing for free trade

is realising the power it has to help agriculture and industry develop using tariffs as economic policy tools, these very tools — this "fishing net for development" — will be removed through signing the EPA.

Countries that are successful today did not start out by liberalising. They started out by using tariffs to protect industries and having the state invest in them.

Korea and Taiwan both achieved their phenomenal growth rates in the second half of the 20th century through state-led development and the use of tariffs and other policy measures. Average tariffs in these countries were in the region of 30-40 per cent until the 1970s. Each used high tariffs strategically to promote new or main industries. They had government regulation to actively discourage imports of goods that competed with domestic products.

In China and Vietnam, successful examples of trade-driven development, high tariffs and state intervention have been widely used. The EU itself took many years to develop behind protective barriers before opening up its markets to competition. And yet the EU are pushing Africa to do the exact opposite. A

goods-only EPA is a reciprocal free trade deal, not a fair trade deal.

If the EC were serious about supporting Africa to trade its way out of poverty it would drastically change non-tariff barriers into the EU that have seriously hindered the ability of Africa to access the EU market. These include such things as domestic subsidies to EU agriculture, complicated Rules of Origin and Sanitary and Phytosanitary measures, as well as support around private sector standards that have the ability to restrict exports from Africa.

None of these issues will be part of any final EPA text that may be hastily cobblebed together to meet the December 2007 deadline.

The EC argue that the current trade arrangements under Cotonou must change because they are "not compatible with international trade rules" and they also state (incorrectly) that "calling for an end to EPA negotiations when there is no credible alternative is playing poker with the livelihoods of those we are trying to help". The fact that the current system is not WTO-compatible

TRADE | PETER MANDELSON AND LOUIS MICHEL The writers are EU commissioners

NO question in Europe's trade and development policy is more pressing, or more politically sensitive, than how we can use trade to help African, Caribbean and Pacific countries build stronger economies and break their dependence on trade preferences and basic commodity trade.

The key is to give greater confidence and more opportunities to local businesses, attract new investment and build strong regional markets.

These will in turn strengthen their capacity to sell their goods in a global market.

The Economic Partnership Agreements that the European Union (EU) is currently negotiating with the six African Caribbean and Pacific regions are designed to help do all these things.

They will take a trading relationship based on dependency and turn it into one based on economic diversification and growing economies.

But there are some misconceptions about EPAs — doing the rounds, complicating the job of those in the ACP who want and need these agreements. Critics of Economic Partnership Agreements say that the EU is steamrolling ACP regions into completing negotiations this year.

It is not the EU that is imposing this deadline.

Our current trade arrangements discriminate in favour of some developing countries — the ACP — and against others. That is not compatible with international trade rules.

We promised non-ACP developing countries in 2000, when we agreed our current arrangements, that we would put in place a new system

## Nobody in the EU is pushing a free trade deal on Africa

potential of EPAs. But reaching an agreement on trade in goods now will at least prevent a disruption to ACP trade with Europe.

Critics of Economic Partnership Agreements claim they will open ACP markets to EU trade at the expense of local businesses, and local growth. Again, this is simply not true.

EPAs won't mean 'free trade' between the EU and African Caribbean countries from January 1st next year, or any time soon.

From the European side there will be a full removal of tariffs and quotas, with short transitions for sugar and rice which need some protection from imports. We'll also make sure there are no export subsidies on any goods where ACP countries remove tariffs.

But rather than refuse to sign an agreement until every part of the negotiation is complete, we have said that so long as we can reach agreement on the question of trade

investors have to these markets, not too much.

But this process of trade, but about reform and development together. We want markets and at ment.

Not only will the and Pacific countries benefit from hundreds of euros annually in — in total, 23 billion) until 2010.

be a major benefit from aid for the Euro (Sh194 billion) priority given to implement Econ. Agreements.

There is no Economic Partnership negotiations for difficult issues, an economic reform in place for

But no one believes working. Africa's dependence commodities behind the poverty economic growth.

America. Calling negotiations who able alternative with the livelihood trying to help.

Some people have very idea that ACP sit down with E ate a trade agree doesn't suit. They prefer to cartage and helpless.

But ACP countries have repeatedly committed to the Economic Partnership designed to achieve

Of course there

African, Caribbean and Pacific countries will be able to protect and exclude sen-

## Scientists and lobby groups

By JOHN MBARIA Environment Correspondent

During the debate on the controversial Biosafety Bill 2007 that went through the Second Reading in Parliament on Thursday, MPs were reported to have voiced concerns over the introduction of extraneous issues that were not covered by the Bill.

MPs have been criticised for introducing alien and invasive species like the water hyacinth; cloning of humankind and the risks some Kenyans might have been exposed to in earlier Aids trials to the Bill fronted by Cabinet minister Dr Noah Wekesa.

"This Bill has nothing to do with Aids trials or the other matters raised by MPs in Parliament... It is basically about enabling the introduction and commercialisation of genetically modified organisms (GMOs) into the country," said Josphat Ngunyo, the director of Africa Network for Animal Welfare (ANAW).

First published in 2005, the Bill provides for the safe entry of GMOs into the country. It calls for the establishment of the National Biosafety Authority and sets out the latter's powers and responsibilities in regulating research, importation and commercialisation of GMOs.

Once enacted, it is expected to ensure the safe handling, use and transfer of these products.

But there are polarised views on its pros and cons. Championing one side of the debate has

been the Kenya Biodiversity Coalition, an organisation composed of 43 NGOs, farmer associations, consumer and community groups.

Though the group has said it supports an effective and powerful biosafety law to regulate GMOs, it has decried the "intentional scheme" to weaken the Bill so that the importation and commercialisation of GMOs can be "hassle-free".

The coalition also takes issue with the very process of preparing the Bill saying it did not incorporate the views of farmers and ordinary Kenyans but rather took a "boardroom approach".

In a recent advertiser's announcement in the *Daily Nation*, the group said the Bill leaves no room for Kenyans to debate whether or not they ought to accept GMOs here.

The group also says the Bill does not ask importers of GMOs to label them appropriately, neither does it deal with the safety of pharmaceutical products or food aid entering the country.

Members say it is too lenient on those who might release a GMO that harms public health or the environment. They are urging the Government to withdraw it from Parliament.

An equally vocal pro-GM lobby also published a whole page advertisement countering what the opponents of the Bill say. Operating under the African Biotechnology Stakeholders Forum (ABSF), the lobby led by Norah Olenbo

## continue to differ on 'designer foods'



Dr Wekesa

and Florence Wambugi, both leading scientists in related fields deny that plucking genes from one set of organisms and pumping them into different organisms is morally wrong.

They say GMOs are a reality today and that it is safer for Kenya to be prepared for

their entry by passing the Biosafety Bill, 2007. Other groups have taken a middle-ground position, arguing that what matters is for the Government to promote the interest and safety of the public.

"This is because many GM crops are designed to produce one or more toxins which make it possible for the relevant plants to kill off destructive pests on their own," said a researcher at the Kenya Agricultural Research Institute (KARI) who declined to be named.

The researcher added that consuming crops with such toxins over a long time could cause allergies. The toxins may have medium and long-term effects on other living organisms and particularly useful insects in the environment.

He argued that such concerns are not far-fetched because the world has only been cultivating and consuming GM products for slightly over a decade.

But many other scientists believe that Kenyans should not entertain blanket condemnation of genetic engineering. They say it has enabled humanity to develop artificially produced insulin, a much-needed hormone for diabetics to break down sugar in their bodies.

Although both sides of the debate have stated that food insecurity is the biggest challenge facing Africa, the pro-GM lobby

has argued that technology — particularly manipulation of plant and animal genes — might be the panacea for food insecurity.

In its website, KARI says it is currently undertaking GM-seed research to combat the problems that hamper profitable agricultural research in Kenya — disease, pests, droughts and poor seeds.

KARI's research, which has centred on GM-maize, sorghum, cotton and sweet potatoes, is jointly undertaken with international research institutions and giant biotech companies from the US and elsewhere.

The aim, KARI says, is to produce seeds that are resistant to pests, weeds such as striga, droughts and others that are fortified with alien proteins.

Those opposed to 'designer' farming have asked scientists to address the fear of a likelihood that cultivating GM-crops might lead to decimation of such useful insects as bees and butterflies.

"We risk a possibility of poor farmers being at the mercy of Western companies selling expensive inputs, if we start growing GM-crops," said Ngunyo.

Mr Ngunyo wonders why key financiers have given a wide berth to organic farming in Africa, yet international markets are desperately in need of organic products.



## 5. PLATFORMS FOR CONTRIBUTION

HKAT has attended and effectively contributed to health and trade related meetings, events, workshops, forums, conferences etc. These include, but are not limited to: a) weekly and bimonthly Biosafety, Fair Trade and Keplotrade meetings and training workshops, b) IGWG, c) Ecofair, Slow Farming, Sound Farming Meeting, d) Regional Workshop on the Trade and Economic Impacts and Implications of ESAEU and SADC-EPAs, Naivasha, e) The Hidden Revolution Conference, f) Stop EPAs Day, g) Stand Up Against Poverty, h) Political meetings, h) Media briefings.

Due to the direct relationship between health and trade related issues and reduction in poverty, improvements in access to education, food, equality and economic development, progress made on each goal will directly influence the others.

Following are selected summaries and extracts which are available in their entirety on the HTAT Kenya webpage/ project page.

[Websites: [www.takingitglobal.org](http://www.takingitglobal.org); [www.ip-watch.org](http://www.ip-watch.org); [www.oxfam.org](http://www.oxfam.org); [www.actionaid.org](http://www.actionaid.org); [www.accessmed-msf.org](http://www.accessmed-msf.org); [www.foei.org](http://www.foei.org); [www.cuts-international.org](http://www.cuts-international.org); [www.3dthree.org](http://www.3dthree.org); [www.southcentre.org](http://www.southcentre.org); [www.grains.org](http://www.grains.org); [www.unhcr.com](http://www.unhcr.com); [www.iyp.oxfam.org](http://www.iyp.oxfam.org)]

### 5.1. ECOFAIR, SLOW FARMING, SOUND FARMING MEETING 4 – 7TH NOVEMBER 2007, NAIROBI



The EcoFair Trade Dialogue was initiated by Misereor together with HBF in order to address the negative impacts of the current trade policies by launching a widely spread debate on creative and innovative solutions for an international trade system.

'In our view, current trade and agricultural policies are reduced to purely economic criteria and neglect social and environmental impact.

We think that a change in paradigm is urgently needed and would like to contribute to this through the EcoFair Trade Dialogue.

Oduor Ongwen and Aileen Kwa will later give an overview on the ideas developed by EcoFair Trade Dialogue on how this paradigm shift could be reached.'

[Doc: Slow Trade - Sound Farming Report pdf.]

[Additional Docs: 3. Introduction and Objectives, Marie/ Ecofair, Slow Trade, Sound Farming Folder]

### 5.2. THE HIDDEN REVOLUTION IN AFRICA: ISSUES IN AFRICAN AGRICULTURE AND AGRO-BUSINESS 7<sup>TH</sup> - 9<sup>TH</sup> NOVEMBER 2007, NAIROBI

The Hidden Revolution is an initiative of Allavida, supported by the Heinrich Boll Foundation, focused on the dramatic changes under way in African agriculture.

The conference profiled major developments in African agriculture and agro-business, including GMOs, Biosafety & Biotechnology, 'Green Revolution' approaches and agro-fuels, and created opportunities to critique these developments from scientific, economic, environmental and social perspectives. The conference also gave delegates the opportunity to discuss alternative or additional approaches to agricultural development.

The name of the initiative, *Hidden Revolution*, emphasizes two points: first, there is an unprecedented level of new investment flowing into African agriculture and, most importantly, into new scientific approaches to boosting food security and creating new markets. The use of 'revolution' echoes the Green Revolution, now associated with Rockefeller and Gates Foundations' *Alliance for a Green Revolution in Africa*, but more generally linked to the application of scientific and technological 'fixes' for poor agricultural productivity.



Why 'hidden'? This is to emphasize that outside of specialist networks and institutions there has been very little informed debate about the merits of Green Revolution approaches, the rapid spread across Africa of agro-fuels and other such initiatives. Yet these new approaches are fundamentally changing the nature, scope and scale of African agriculture and agro-business.

[Folder: The Safaripark Conference]  
[Website: [www.hiddenrevolution.or.ke](http://www.hiddenrevolution.or.ke)]

### **5.3. THE 2ND IGWG DRAFT STRATEGY AND GLOBAL PLAN OF ACTION.**

#### **5.3.1. THE AFRICAN CIVIL SOCIETY COALITION ON IGWG [1] SUBMISSION ON THE IGWG DRAFT GLOBAL STRATEGY AND PLAN OF ACTION**

The African Civil Society Coalition on IGWG welcomes the initiative from WHO to develop a Global Strategy and Plan of Action on Public Health, Innovation and Intellectual Property.<sup>2[2]</sup> We affirm there is an urgent need for action to improve access to medicines for people in developing countries.

The health situation in our African countries is affected by various challenges, including the following:

- The majority of our people cannot access the medicines they need.
- The economic, social and political determinants of illness are not being sufficiently addressed.
- The pharmaceutical market is not driven by public health interests, but by commercial interests.



- Patent protection and high prices are two of the barriers blocking poor people's access to medicines.
- Funding for research, development and access (RDA) to medicines is insufficient.
- There is a lack of innovation for medicines for many of the diseases prevalent in our countries. Health interests of poor people are neglected by the profit-driven pharmaceutical market. Indeed, the WHO Commission on IP, Innovation and Health (CIPIH) concluded that patents do not work as incentives for research and development (R&D) for medicines for poor people.

[Doc: The African Civil Society Coalition Submission on IGWG pdf.]

### 5.3.2. HEALTH ACTION INTERNATIONAL AFRICA (HAI AFRICA) PRESENTS ITS SUBMISSIONS ON THE 2<sup>ND</sup> IGWG DRAFT

Submissions on the WHO Intergovernmental Working Group on Public Health, Innovation and Intellectual Property's Draft Global Strategy and Plan of Action on Public Health, Innovation and Intellectual Property:

#### Element 6: Improving Delivery and Access

- In element 6.1 we propose a new element (d) to read, 'encourage pooled procurement mechanisms in developing countries'.
- In element 6.2(d) we propose that the word 'encourage' be replaced with 'support'.
- In element 6.2(e) we propose that the word 'minimize' be replaced with 'address'.
- In element 6.3. (a) we propose that the words, 'on patent expiry' at the end of the sentence be deleted, as they imply that generic drugs cannot be produced before the expiry of a patent. Mechanisms such as voluntary and compulsory licensing allow for the production of generics before the expiry of a patent.
- We also propose the following new elements:
  - (g) Utilize the flexibilities in the TRIPS Agreement especially on parallel importation (exhaustion of rights) and research exemption.
  - (h) Exploit expired or invalid patents to introduce generics in the market.
  - (i) Promote use of generics in the developing countries.

[Doc: HAI IGWG SUBMISSIONS pdf.]

### 5.4. REGIONAL WORKSHOP ON THE TRADE AND ECONOMIC IMPACTS AND IMPLICATIONS OF ESAEU AND SADC-EPAs 6<sup>TH</sup> - 9<sup>TH</sup> SEPTEMBER 2007, NAIVASHA



The EU has been negotiating with ACP countries Economic Partnership Agreements (EPAs) that will replace their current trading arrangement. The negotiations of this new trading arrangement come to a close in December 2007 and the agreement expected to come into force in January 2008. Unlike the previous trading arrangement, the EPAs will be reciprocal and will see to ACP countries liberalizing their economies. However, as time for conclusion of these negotiations nears it is

important for stakeholders to shift from debates on general EPA issues and instead focus on more concrete issues such addressing the following questions:

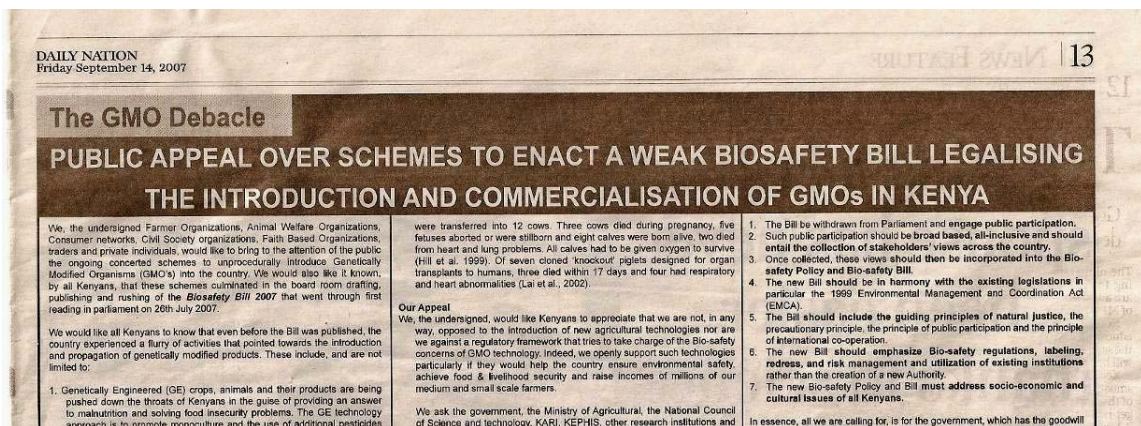
- a) Are ACP countries ready to sign the new trading agreement come January 2008?
- b) For the EAC countries, what is their stand with regards signing of EPAs bearing in mind that their members are in different negotiating blocs (ESA & SADC) yet EAC is a customs union?
- c) What proposals are contained in the ESA-EU and SADC-EU texts, what are EU's comments on the proposals and what are the implications of the proposals on ESA
- d) Are there alternatives that would ensure ACP products still maintain their preferential market access to EU in the event no agreement is reached by both parties come December 2007
- e) What benchmarks are in place to ensure that EPAs deliver on their objectives as stated in the Cotonou Partnership Agreement?

It is on the basis of this that EcoNews Africa, CUTS International Nairobi office in partnership with FES, Kenya organized a workshop for various stakeholders with the aim of addressing the above mentioned issues. The participants were from member states of EAC, (Tanzania, Kenya, Uganda, Rwanda & Burundi) and neighboring countries Sudan and Ethiopia. The participants were representatives of the government sector, civil society, private sector, academia and representatives of interests groups. The workshop was held in Naivasha, Kenya from the 6th- 9th September 2007.

[Doc: FINAL REPORT – regional EPA meeting Naivasha .pdf]

## 5.5. THE KENYA BIOSAFETY COALITION [KBioC/ KBC]

Under the auspices of the Kenya Biosafety Coalition we are represented by KeFoSPAN and Oxfam IYP-CWF. KBioC has been in negotiations with stakeholders, civil society and the Government, notably the Ministries of Science and Technology, Agriculture, Health, Trade & Industry, Environment, lobbying for the withdrawal of the draft Biosafety Bill 2007 and formulation of effective legislation that protects human health, the environment and biodiversity.



Our [continuing] actions include/ have included:

- A public petition [in the media, online, at forums & events] calling upon His Excellency the President Hon. Mwai Kibaki to halt the Biosafety Bill process and send it back for public participation: [Doc: Public appeal to petition the President. pdf]
- Understanding/ studying the Bill & making amendments and recommendations:
  - a) The Bill should not be introduced to parliament before additional/adequate **public participation** is done in the development process
  - b) There is great need to have a broad based participatory, all inclusive, proactive **collection of stakeholders' views** across the country
  - c) These views should then be **incorporated** into the draft Bill before it becomes an Order Paper
  - d) The new Bill should be in **harmony with the existing legislations** in particular Environmental Management Coordination Act [EMCA, Cartagena Protocol, CBD]
  - e) The Bill should include/ clearly state the **guiding principles** of natural justice which include the precautionary principle, principle of public participation and international co-operation
  - f) The Bill should **emphasize Biosafety regulations, redress, risk management and utilization of existing institutions** rather than the creation of a new Authority?
  - g) The new Bill should **address socio-economic and cultural issues** of all Kenyans?
- Taking a stand:
  - a) Mobilization/ Involving stakeholders in marches and protests - e.g. On World Food Day, after an address by GMO challenger, MP Nakitare, we marched through streets of Nairobi to the President's office where we presented the signed petitions to Ambassador Muthaura, Office of the President]
  - b) highlighting the issues/ being heard through the media [KTN, NTV, KBC, Citizen, Daily Nation, The Standard] :newspaper, radio and TV interviews and [5]Press Briefings [e.g. On 15<sup>th</sup> October KBioC unveiled results of tests commissioned that confirmed the shocking presence of [unlabelled] GM foods in local supermarkets [Docs: Kenya Food Testing pdf.]. This stark violation of consumers' right to know contributed to the failure of the Bill]
  - c) Holding our leaders accountable - lobbying MPs to shoot down the Bill when it was presented in Parliament. We are already working with political parties, civic and parliamentary aspirants.





d) Providing additional Information/ creating awareness on GMOs, Biotechnology and Biosafety - through articles, fact sheets, trainings and workshops [with some input from Green Peace Reps], useful institutions, documents, websites etc.

- In October Biosafety Bill went through its second reading. Although the 9<sup>th</sup> Parliament was dissolved before it was passed into law, we are sure that it will be reintroduced at the 10<sup>th</sup> Parliament. Consequently, we are re-strategizing in preparation for the forthcoming actions and Parliamentary proceedings. CWF is working with the media and stakeholders on an awareness campaign that will be launched after the elections and a PSA that will soon be available online. Many Kenyans do not know what GMOs are all about and are unaware of how they stand to gain or lose once the cultivation and commercialization of GMOs gains a foothold. It is therefore imperative that Kenyans be made aware of what is at stake.

### Biosafety Bill Kenya - Next? 23.10.27, GENET NEWS



Against all odds, the Kenyan Biodiversity Coalition, comprised of more than 40 NGOs, was able to prevent in the last minute an industry-friendly Biosafety Bill. The Kenyan parliament was scheduled to finally approve the Bill on Tuesday, 16

October, but after public protests and demonstrations in Nairobi, the parliament postponed the decision.

The Ninth Parliament had managed to pass a record 67 Bills in the past five years. At the last minute, the President signed into law, 11 Bills, among them Political Parties Bill, Appropriation Bill, Finance Bill, Work Injuries Benefits Bill, the Labour Relations Bill, Employment Bill, Labour Institutions Bill, Occupational Safety and Health Bill, Nutritionists and Dieticians Bill, Supplies Practitioners Management Bill which provides for the training, registration and licensing of supplies practitioners. Missing in this list of Bills was the controversial Biosafety Bill.



The Biosafety Bill was highly contentious and it is a great victory for those who fought very hard to have various issues within the Bill clarified. Before the Bill could be discussed, the Kenyan President (Monday, 22 October) dissolved the parliament to prepare for the upcoming national elections. This is a temporary reprise on the Biosafety Bill.

The Bill will be tabled for discussion in the Tenth Parliament and probably under



new government in 2008. It is however not clear how the composition of the parliament will affect the level of debate on such issues. It is therefore important to bear in mind that most politicians in Kenya will not be in a position to deliberate the contentious issues within the Biosafety Bill. This calls for a united civil society to chart the way forward and help craft a Bill that reflects the realities of today, protects our environmental integrity and takes care of the future.

This temporal pause calls for coalition building and the development of a strategy that will pave the way for a people driven Charter on Biosafety, not only in Kenya but across the globe!

The Statute Law (Miscellaneous Amendments) Act, 2007 is an Act of Parliament to make amendments to the Statute law. The Biosafety Bill is included in this Bill for Amendment and enactment. [Doc: Biosafety Bill Kenya - Next]

[Doc: Connie Salient Issues Biosafety Bill 2007/ 001 Presentation Seatini finalfina ppt./ Biosafety bill too rushed, Daily Nation, Oct 5]

[Additional docs: 0KBioC Amendments to Biosafety Bill 2007/ Biosafety Bill 2007 pdf./ KBioC The Biosafety Bill 2007 with Amendments/ Kenya's Biosafety Bill pdf./ Campaign Biosafety d3]

[Websites: [www.koan.org](http://www.koan.org); [www.citronwoodfoundation.org](http://www.citronwoodfoundation.org)]



## 5.6. GLOBAL YOUTH COALITION ON HIV/AIDS [GYCA] UPDATE

### 5.6.1. PLANNING FOR THE MEXICO INTERNATIONAL AIDS CONFERENCE 2008

Building on its involvement as a key partner in the Toronto Youth Force at the XVI Toronto International AIDS Conference (IAC), GYCA is currently spearheading the planning process for youth-led and youth-related civil society participation through the Mexico Youth Force (MYF) at the Mexico IAC 2008 along with IPPF, Advocates for Youth, TakingITGlobal, UNFPA, Ave de Mexico, and YWCA. GYCA has nominated youth for committee positions, and is working with other MYF partners to ensure continued meaningful youth participation at next year's IAC, especially youth living with HIV.



### 5.6.2. YOUTH-ADULTS COMMITMENTS FOLLOW UP

One of the most innovative new approaches to political advocacy at the Toronto IAC was GYCA's idea to create a Youth-Adult Commitments Desk. Youth delegates advocated to

prominent decision makers to visit the desk and make concrete, time-bound commitments to young people such as making clinics youth-friendly, creating gainful employment opportunities for youth, funding youth initiatives, etc. Commitments were made by prominent leaders in international development such as Stephen Lewis, Bill and Melinda Gates, Mary Robinson, Helene Gayle, Mexican Minister of Health Julio Frenk, and more.

GYCA is leading the follow-up process on behalf of the Toronto Youth Force by identifying exceptional young leaders in countries where commitments were made, and asking them to follow up in a timely manner to measure results. Regional Focal Points will manage the follow up process uses the opportunity to introduce local young leaders to adult allies in their community. These local youth- adult partnerships will further the goal of a multi-sectoral, collaborative approach to address the needs of young people infected and affected by HIV/AIDS.

[Website: [www.youthaidscoalition.org](http://www.youthaidscoalition.org) ]

### **5.7. 'VINA NA MAANA' (RHYMES WITH MEANING) - 15<sup>TH</sup> SEPTEMBER 2007**

At this HIP-HOP musical festival Kenyan hip-hop artists rapped against Europe's unfair trade proposals. Featured were "anti-EPAs" rhymes by Ukoo Flani/Mau Mau, Juliani, Kalamashaka, Nasara and DJ Zaq among others.

Hip hop is a musical genre widely understood and celebrated among the young people living in Kenya's urban areas. Through this music, the youth have found a way to speak out about the various challenges and situations that they face daily. The main aim of the concert is to create awareness of EPAs among students and youth from urban informal settlements, who will be highly affected by these unjust trade agreements.

### **5.8. INTERNATIONAL STOP EPAS DAY – 27<sup>TH</sup> SEPTEMBER 2007**



27 September 2007 marked the fifth anniversary of the start of negotiations for Economic Partnership Agreements (EPAs) between the EU and the ACP (African, Caribbean & Pacific) countries.

HTAT Kenya were part of thousands of campaigners, workers, farmers and activists from across Europe, Africa, the Caribbean and Pacific who took part in coordinated events on September 27<sup>th</sup> to protest against proposed EPA. The protesters argue that free trade deals along the lines proposed by the European Union would destroy livelihoods and the environment and undermine future development and regional integration. They called on national Parliaments and Governments, as well as EU institutions to abandon the draft EPAs that are now on the table. Kenya Events included:

- Kenya Human Rights Commission to Filing a Case in Court on EPAs [refer to 7.8.6.]
- Students handing out Stop EPA leaflets to motorists and wananchi around major down-town traffic junctions and roundabouts
- Stunt at Freedom Corner, Uhuru Park: farmers', civil society organizations and other social movements using a stunt, to protest the EU's pressure on African

governments to sign unfair trade deals before the end of 2007. The Stunt was very visual and was supported by statements made by farmers and representatives from farmers associations.

[Folder: Stop EPAs Day Pack/ Emails 3 Stop EPAs Day]

[Websites: [www.stopEPA.org](http://www.stopEPA.org) ; [www.maketrade.org](http://www.maketrade.org) ; [www.stopthinkresist.org](http://www.stopthinkresist.org) ; [www.epa2007.org](http://www.epa2007.org) ; [www.acord.org.uk](http://www.acord.org.uk)]

## 5.9. HTAT KENYA STOOD UP AGAINST POVERTY - 17<sup>TH</sup> OCTOBER 2007

STANDARD • TUESDAY, OCTOBER 16, 2007



**Over one billion people worldwide don't have access to clean water.  
That's an emergency.**

### Stand Up and Speak Out against poverty on October 17.

Last year, 23.5 million people stood up against poverty. They stood up to remind their governments to keep their promises. The promises they made seven years ago with the Millennium Development Goals:

The promise by the richest countries in the world to provide more and better aid. The promise to cancel debts. The promise to adopt trade rules that will help fight poverty. And the promise to address these now, so that poor countries can end poverty, hunger and

disease, and ensure an education for their children. The promise to achieve these Goals by 2015. The promises that many of them have not kept.

This year, be one of the millions who stand up and speak out. Join us on Wednesday October 17th at the Jomo Kenyatta Square in Kisumu from 9am to 11am or for a rally or at the St. John's Catholic Church in Korogocho, Nairobi from 10am to 1pm for a concert by "Artists

United for a New Kenya". Both headline events will culminate in a performance of the intensely moving Poverty Requiem.

All Kenyans are invited to stand up wherever they will be on October 17th at 12 noon in solidarity with the poor.

Come next support us as we try and break the world record for standing up against poverty. Millions of others are counting on you.

[standagainstopoverty.org](http://standagainstopoverty.org)





## 6. CREATING LINKAGES & INCREASING AWARENESS

HTAT Kenya has created a webpage/ project page and team web address to support the awareness and networking processes. All HTAT Kenya and related health and trade documents and emails are available on these pages which are regularly updated. We are in the process of inviting and adding contacts of stakeholders, civil society, media, parliamentary and political leaders, decision makers, networks, coalitions and alliances on trade and health issues to improve the distribution of information, fact sheets and resources, and to provide a sound platform to facilitate greater discussions on the issues - on the HTAT Kenya mailing list and upcoming discussion board/blog - among a much broader audience and pool of stakeholders.

Information and fact sheets on health, trade and the right to health have also been disseminated on other online platforms, through our networks and partners, at training workshops, meetings and forums. The HTAT Kenya website is under construction and will be launched on 1<sup>st</sup> December to commemorate World Aids Day.





## 7. RESEARCH, PREPARATION AND DISTRIBUTION OF RELEVANT INFORMATION

Since September 2007 HTAT Kenya has undertaken a great deal of research, preparation and distribution of relevant information, reviews, summaries, comments, pictures and analysis of key events, meetings, websites, workshops and documents that have been shared among the team, members networks, CSOs, the media, parliamentary and political leaders, decision makers and the general public. Below are extracts of selected key documents submitted so far, which are available in their entirety on the HTAT Kenya webpage/ project page. The research, preparation and distribution processes are ongoing.

### 7.1. THE SECOND ESA CSOS' JOINT STATEMENT ON ESA-EU ECONOMIC PARTNERSHIP AGREEMENT. [ECONEWS AFRICA, 18<sup>TH</sup> SEPTEMBER]



EcoNews Africa as one of the CSOs participating and involved in the multilateral and bilateral trade negotiations in the region in collaboration with Oxfam GB will undertake to coordinate, author and publish the 2<sup>nd</sup> ESA Civil Society Joint Statement on ESA-EU Partnership Agreement. The statement is intended to be the CSOs' input to the 13<sup>th</sup> Regional Negotiating Forum scheduled for Djibouti sometimes in October 2007.

.....  
It is proposed that, in order to do a useful and critical analysis of the issues mentioned and others that fall in the realm of EPAs, the current ESA-EPA Text, the 12<sup>th</sup> RNF Report, the various Dedicated Session Reports will be examined. This is important because these are the documents and records that give the true and current ESA Position.

[Doc: 2end ESA CSO Joint Statement on ESA EPA (3)]

[Additional, Doc: CALL: 2nd ESA CSOs ' Joint Statement on ESA-EU EPA Text for the 13th RNF]

### 7.2. CSOs' COMMENTS ON ESA EC TEXT TO ESA NEGOTIATORS - OCT 2007 [GSI KENYA , ECONEWS AFRICA, BEACON, CUTS ZAMBIA, OXFAM]

CSOs urge ESA negotiators to stand firm in solidarity with other ACP regions and work to secure a transition period for the extension of preferences, rather than sign a framework EPA that does not reflect the development needs of ESA. West Africa have concluded that it is "objectively impossible" for the region to conclude negotiations and have requested an additional negotiation period, Pacific still have many issues to resolve, as with the Caribbean, and in CEMAC the EU has not been accepting



requests from the region. An all ACP meeting and decision around EPAs is critical before decisions are taken at the regional level. CSOs also urge ESA countries, within the ESA block, to stand together in their negotiations with the EC and secure a way forward that works towards regional integration for COMESA rather than undermining this and further weakening the bargaining power of ESA and ACP countries.

Signing a framework EPA in order to ensure a transitional period goes in the opposite direction of ESA's negotiating strategy - nothing is agreed until everything is agreed. Agreeing a goods only free trade agreement not only removes ESA's bargaining power from other areas that might be agreed later, – but on current impact assessments, will be damaging to ESA countries in itself. Kenya could lose between 8-12% of government revenue as a result of an EPA; in Uganda the loss could be equal to 40.4 billion Ugandan shillings when the EPA comes into full effect. In Mauritius customs revenues will be reduced by Rs1.6 billion equivalent, a 54% reduction. In Zambia the tariff revenue loss is estimated to be about US\$15 million with complete liberalization. With GSP+ and EBA in place no such reductions in Government Revenue would occur.

CSOs are aware that immense pressure is on ESA negotiators to conclude a framework EPA. This document to ESA negotiators reviews the current text and urges caution especially given that areas of key importance to ESA negotiators do not now appear in the current text. Previous ESA chapters and articles on industry, agriculture, food security, commodity protocols, financing of and adjustment to the EPA, a specific EPA facility, debt cancellation and EU export subsidies and domestic support - have disappeared, and areas such as development could be sidelined into documents outside of the agreement.

ACP countries have repeatedly called for the need of EPAs to maintain 'policy space' required by Governments to pursue their own strategies for economic, social, cultural, environment and institutional development. Utmost political attention should be given to the risks involved in negotiating trade-related disciplines that may hinder the capacity of ACP countries to implement policies in these areas. By agreeing an EPA - Government policy space around tariff binding and the ability to raise and lower tariffs will be lost – significantly reducing governments' ability to control economic policy and severely undermining the flexibility that developing and least developed countries argued for at the WTO. CSOs would also argue that as well as pursuing a transition period, other WTO compatible options should also be sought. An informal transition period between ESA and the EC will continue to provide the EU with the threat and ability to remove preferences on exports at any time – the pressure on ESA to eventually sign a weak framework EPA will still be considerable. CSOs would also recommend that ESA request and pursue trading arrangements with the EU that retain the status quo and are legally secure for ESA exports to the EU in order to gain some level of leverage within the negotiation of an EPA. To this end EBA ( which is already readily available for LDCs) and GSP+ options must be seriously explored given the level of investment not only in the export industries, but also within national industry and agricultural sectors, regional cooperation and integration, and the EPA negotiations themselves – for an arrangement that builds on ESA's development – rather than undermining this.

CSOs would urge negotiators to stand firm within the negotiations with the EU on a number of 'red line' issues namely:

- “Nothing is agreed until everything is agreed”

- “No Development No EPA” - Development before liberalization: in terms of funding, programmes and development benchmarks
- Extra funding for EPA covering adjustment, supply-side constraints and government revenue losses through a separate EPA facility
- Maintenance of Cotonou preferences including halt to preference erosion and maintaining key commodities
- Better and simpler Rules of Origin that will work for the region
- 10 year moratorium on tariff liberalization for COMESA to establish itself & schedules for gradual tariff liberalization that extend for 25 years
- Protection for sensitive products with coverage that is as large as possible and covers food security, industrial development and employment
- Safeguard clauses such as review, anti-dumping and other measures
- WTO+ rules removed from the negotiations especially on intellectual property rights

[Doc: Comment on the EC-ESA text CSOs final pdf.]

### **7.3. CRITIQUE'S ON EPAS TEXTS IN RELATION TO INTELLECTUAL PROPERTY (TRIPS) AND SERVICES**

#### **7.3.1. SOMO - TECHNICAL ANALYSIS OF THE PROBLEMS RESULTING FROM LIBERALIZATION OF SERVICES IN EU- ACP EPAS - AUGUST 2007**

##### **Why services liberalization in EPAs?**

The services sector is an important source of employment and income in developing countries, often exceeding industry and agriculture. In 2002, the services sector accounted for an average of 49% of GDP in developing countries. Foreign investment in services potentially contributes to development and economic efficiency by providing capital for infrastructure and improved services in cash-strapped countries. However, if liberalized in the wrong way, the impact of foreign services companies in a developing countries' economy can be negligible, or even negative. Developing countries have therefore been reluctant to agree to ambitious new services liberalization commitments at the WTO. In EPA negotiations, Ministers of African, Caribbean and Pacific countries (ACP) too have consistently shown their reluctance to include services and investment liberalization, especially because the EU is ignoring their development needs and concerns.

.....

The EU is pushing hard for extensive liberalization. EU proposals for liberalization of services and investment on the table of the EPA negotiations are in line with its “Global Europe” strategy aiming to open markets abroad for EU multinationals to be able to grow.<sup>1</sup> While the EU insists that services liberalization is essential for ACP development and stresses that EU companies have no particular interest in ACP countries, it has an offensive agenda. The EU wants to prohibit that non EU major services investors -such as those from South Africa in the rest of Africa- get more favorable treatment. Where ACP markets are profitable, the EU knows that investment conditions and regulations are key for its services industries to be able to benefit.

[Doc: Critique of EPA text – Services (SOMO) 1]



### 7.3.2. CIEL



THE PROBLEM OF INTELLECTUAL PROPERTY IN ECONOMIC PARTNERSHIP AGREEMENTS WITH THE AFRICAN, CARIBBEAN AND PACIFIC COUNTRIES (MAY 2007)

The inclusion of TRIPS-plus intellectual property (IP) provisions in bilateral agreements between the European Union and developing countries has become an issue of increasing concern. Ending an informal moratorium<sup>1</sup>, the EU began in late 2006 to increase its activity in negotiating bilateral trade agreements. The European Commission has explicitly included a TRIPS-Plus mandate in its trade goals, stating that, “[t]he EU should seek to strengthen IPR [Intellectual Property Right] provisions in future bilateral agreements... ”<sup>2</sup> **The most significant set of negotiations that the EU is currently conducting are for Economic Partnership Agreements (EPAs) with the 76 member African, Caribbean and Pacific (ACP) group of countries.** These agreements will significantly change the traditional non-reciprocal trade preference relationship that existed between the EU and ACP group of countries. They have the potential to:

- alter the entire landscape of international intellectual property by short-circuiting developing country attempts to ensure full consideration of development-appropriate standards in multilateral agreements at the World Trade Organization (WTO), the World Intellectual Property Organization (WIPO) and other fora;
- impose further intellectual property obligations on countries that are unprepared for them, at a time when many have barely begun to fully consider the impact of implementing their TRIPS obligations.

.....

#### **The IP Mandate in EPAs**

The only direct mandate from the Cotonou agreement for the inclusion of IP is that of strengthening further cooperation pursuant to Article 46.6, not the ratcheting up of IP standards. With respect to the WTO, the concerns about WTO compatibility do not apply to IP issues. The concern was purely about the propriety of the preference regime with respect to goods, not IP. **The inclusion of IP provisions in the EPAs is not required to comply with WTO rules.**

[Doc: Critique of EPA text – Intellectual Property (CIEL) 1 pdf.]

### **7.4 UPDATE ON IMPACTS AND IMPLICATIONS OF ESA-EU & SADC-EU EPAS IN TRADE AND HEALTH, EZEKIEL MPAPALE**

Levels of Benchmarking EPAs

Negotiation Stage:

- Here benchmarks would be expected to do the following:-

(1) Assess the extent to which outcome of EPAs can fulfil main objectives of CPA (Cotonou Partnership Agreements) and of Cape Town Declaration, which are:-

- to promote the sustainable development of ACP countries, including reducing poverty;
- to promote the structural transformation of ACP economies as the basis of their integration (on more favourable terms than currently exists) into the world economy;
- to increase access of the poor and the marginalised groups of producers (such as women producers) to economic resources,
- to contribute to the achievement by the ACP of the MDGs

(2) Monitor negotiations to ensure that they accord with the salient principles of the EPAs, such as:-

- that they do not lead any signatory ACP country into a worse off trade arrangement than they have currently;
- that there is no inclusion of TRIPS-Plus mandate in EU's trade goals
- that they include the agenda which must provide relevant, quality equitable health services
- that they respect LDCs' right to non-reciprocal trade preferences;
- that they address the needs of small island and single commodity dependent countries, NFIC, countries in or coming from war/conflict.

(3) Monitor negotiations to ensure that they address specific issues of:-

(a) Market access for ACP exports:

- That they 'substantially improve the real market access opportunities' for the ACP;
- That ROOs should encourage new investment in ACP countries
- That SPS measures in the EU do not impede ACP exports and should be implemented so as to minimize extra costs to small scale producers and exporters

(b) EPA Negotiations preparations and process

- Has the outcome been informed by effective national consultations?
- Has there been adequate participation by all stakeholders, including Trade Unions, environmental NGOs, Consumer Groups, non-traditional export sectors and micro-enterprises in the consultations processes?
- Has the preparatory period shown evidence of adequate or effective public information programmes?

[Doc: Updates on Impacts and Implications of ESA/ Meeting Minutes]

## **7.5. DRAFT JOINT TEXTS – EPAS BETWEEN ESA COUNTRIES ON ONE PART AND THE EC AND ITS MEMBER STATES ON THE OTHER PART**

[We the ACP States of the Eastern and Southern African (ESA) region, constituted as the ESA Group and its individual member countries, on one hand, and the European Union, its Member States and the European Commission, on the other, herein referred to as "The Parties";

Having regard to the Cotonou Partnership Agreement (CPA) signed on 23 June 2000, the COMESA Treaty signed: on 5 November 1993, the SADC Treaty and Protocol on Trade; the EAC Treaty, and the African Union Constitutive Act signed on.....,

Having regard to the Treaty Establishing the European Community (EC).

Having also regard to the decision of the 8<sup>th</sup> Summit of COMESA Authority of Heads of State and Government held in Khartoum, Sudan on 17<sup>th</sup> March 2003 on the establishment of the ESA configuration for the purpose of negotiation of an Economic Partnership Agreement (EPA) with the European Union;

Considering that the ESA States and the EU are agreed that their trade and economic cooperation shall aim at fostering the smooth and gradual integration of the ACP states into the world economy with due regard to their political choices, levels of development and development priorities, thereby promoting their sustainable development and contributing to poverty eradication in the ESA countries;

Reaffirming their commitment to promote and expedite the economic, cultural and social development of the ESA Countries with a view to contributing to peace and security and to promoting a stable and democratic political environment conducive for sustainable national and regional development;

[Doc: Draft Joint ESA – EC EPA Text Brussels June 2007]

#### **7.6. COMMENTS TO ESA SENSITIVE PRODUCTS LIST, JULY 2007**

The list was tabled in the negotiating session held in Brussels in June 2007. It should be recalled that the list includes the products which ESA proposes to exclude from the scope of the free trade area established by the EPA. The list is composed of 2756 tariff lines (HS6), covering 56,8% of imports of the ESA region from the EU in 2004 (data provided by ESA).

In the Brussels meeting the EC side made clear that the list is far from the parameters set by Article XXIV GATT for a WTO compatible free trade agreement, even taking into account the nature of the EPA and the LDC status of most states of the ESA region. On that occasion the EC committed to look at the list and make comments and suggestions, in view of arriving at a substantially shorter list which can pass the scrutiny of the WTO partners, while ensuring protection of those selected products, whose liberalization can cause injury to ESA's economy.

[Doc: EC Comments to ESA sensitive products list 07 07 ENG 2]

#### **7.7. HUMAN RIGHTS GUIDELINES FOR PHARMACEUTICAL COMPANIES IN RELATION TO ACCESS TO MEDICINES, 19 SEPT 2007, DRAFT FOR CONSULTATION, COMMENTS BY 31 DEC 2007 TO [RKHOSL@ESSEX.AC.UK](mailto:RKHOSL@ESSEX.AC.UK)**

Prepared by the United Nations Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health

##### **Introductory Note**

- A. Almost 2 billion people lack access to essential medicines. Improving access to existing medicines could save 10 million lives each year, 4 million of them in Africa



and South-East Asia. Access to medicines is characterized by profound global inequity. 15% of the world's population consumes over 90% of the world's pharmaceuticals.

- B. The Millennium Development Goals, such as reducing child mortality, improving maternal health, and combating HIV/AIDS, malaria and other diseases, depend upon improving access to medicines. One of the Millennium Development Goal targets is to provide, in cooperation with pharmaceutical companies, access to affordable essential drugs in developing countries.

[Doc: PH draft guidelines 19<sup>th</sup> September 2007 (1)]

## 7.8. NEWS FLASHES

### 7.8.1. KENYA'S BIOSAFETY BILL FACES OPPOSITION [AFRICA SCIENCE NEWS SERVICE, KENYA], 21.08.2007



The debate on agricultural biotechnology in Kenya boiled over again last week when peasant farmers and GMO critics staged a demo against the Biosafety Bill that waits to be debated into law by the Parliament. The demo was a rude shock by the GMO proponents who see it as a panacea to low yields against.

[Doc: GMOs Genet News on Mon]

[Website: <http://www.genet-info.org>;

[http://africasciencenews.org/asns/index.php?option=com\\_content&task=view&id=32&Itemid=1](http://africasciencenews.org/asns/index.php?option=com_content&task=view&id=32&Itemid=1);

### 7.8.2. KENYA PARLIAMENTARIANS COULD PASS BIOSAFETY BILL, [AFRICA SCIENCE NEWS SERVICE, KENYA], 21.08.2007

Kenyan parliamentarians are finally set to pass the Biosafety Bill that will offer the regulatory framework to deal with the very controversial Genetically Modified Organisms (GMOs).

[Doc: GMOs Genet News on Mon]

[Website: <http://www.genet-info.org>

[http://africasciencenews.org/asns/index.php?option=com\\_content&task=view&id=33&Itemid=1](http://africasciencenews.org/asns/index.php?option=com_content&task=view&id=33&Itemid=1);



### 7.8.3. EPA FLASH NEWS - 17<sup>TH</sup> OCTOBER, ISSUED BY THE DIRECTORATE GENERAL FOR TRADE, EC

#### Trade and Development: The EU's Aid for Trade Strategy

The EU adopted on 15 October its Aid for Trade Strategy, setting spending commitments on development assistance specifically targeted at projects designed to help developing countries develop the capacity to trade. At the WTO Hong Kong Ministerial in 2005, the European Union pledged to raise its spending on trade related assistance to 2 billion a year from 2010 - 1 billion from the European Commission and 1 billion annually from European Member States. Already the largest global

provider of development assistance, the EU is now also the global leader in funding measures designed specifically to increase the capacity of developing countries to trade.

[Doc: Flash News 17<sup>th</sup> Oct]

**7.8.4. KENYA: LEGAL OBSTACLES EMERGE OVER FREE TRADE DEAL WITH EUROPE, BUSINESS DAILY, 24 OCT 2007**

A landmark case has entered the Kenyan corridors of justice as a group of farmers and a human rights watchdog move to challenge the State over ongoing negotiations for a new trade agreement with Europe.

[Doc FLASH NEWS - Kenya: Legal Obstacles Emerge Over Free Trade Deal With Europe]



**7.8.5. PARLIAMENT FAILS TO LEGALIZE GMOs, BIOTECHNOLOGY WATCH, WANDERA OJANJO, THE SUNDAY STANDARD, 28 OCT**



The failure of the 9<sup>th</sup> parliament to enact the Biosafety bill will remain as one of the greatest disappointments to the science fraternity in Kenya, especially geneticists and proponents of genetically modified organisms.

For close to ten years, they have been pushing for the enactment of the Biosafety bill that would allow for the introduction and commercialization of genetically modified organisms (GMOs). They have done virtually everything within their reach, power and resources to ensure that the bill becomes law.

They had intensely lobbied. They had sensitized members of parliament, taking them on study tours to other countries growing GMOs. Most MPs, both in government and opposition approved the technology and the bill.

With the bill having smoothly gone through the second reading and amendments done, it was expected that MPs would overwhelmingly vote in favour of the bill come last Tuesday. But that was never to happen. President Kibaki had other ideas. He decided to sack the MPs on the preceding Monday before they could vote on the bill and therefore make it into law.

And by sacking the MPs before they could vote on the bill, he had simply thrown, through the window, all the efforts players in the modern biotechnology industry had invested in to have a bill that would regulate handling of GMOs in Kenya.

On the other hand he had simply handed anti-GMO activists a sweet consolation especially after parliament had previously thrown out a bill that would have outlawed the



presence of any GMOs in the country.

Kibaki had just handed the anti-GMO activists victory on a silver platter, especially after their street demonstrations and .....

[Website: [www.eastandard.net](http://www.eastandard.net)]

### 7.8.6 THE KENYA HUMAN RIGHTS COMMISSION (KHRC) SUES GOVERNMENT FOR HUMAN RIGHTS ABUSES, MEDIA ALERT, 13<sup>TH</sup> NOVEMBER

#### Kenya Human Rights Commission Sues Government For Human Rights Abuses

The Kenya Human Rights Commission and the Kenya Small Scale Farmers Forum (KESSF) have instructed **HON. JAMES ORENGO** to institute proceedings to challenge the Economic Partnership Agreements (EPAs) under Section 84(1) of the Constitution of Kenya and various international human rights instruments against the Government of Kenya on violations of the fundamental rights and freedoms of the individual and contraventions of the provisions of the Constitution of Kenya and the international instruments. The Constitutional challenge to the EPA was placed before the Constitutional Court Judge Joseph Nyamu on 26<sup>th</sup> October 2007 and the counsel for the Applicants (JAB. Orenge) prayed that:-



- a) *The matter be certified as urgent owing to the fact that the EPA is likely to be signed on the 27th day of December 2007; and*
- b) *The matter be fast-tracked for the above reason.*

The Judge ruled in the affirmative in both prayers, highlighting the importance in jurisprudential philosophy this Case is likely to set.

The Petitioners are to appear before Justice Nyamu on the **13<sup>th</sup> November 2007**, after which the file will be placed before the **Chief Justice Evans Gicheru** on a priority basis for appointment of a Bench and for setting the dates of the hearing.

This Case represents a unique opportunity to test the government's commitment to enhancing food sovereignty and the attainment of development. The EPAs if signed will have detrimental effects on the livelihoods of Kenyan farmers and will relegate the country's development efforts. Below are some facts on the likely impact of the EPA:

- **FACT 1:** The EPA proposes to liberalize **SUBSTANTIALLY ALL** sectors of our economy.
- **FACT 2:** According to analysis carried out by the Ministry of Trade, 65% of Kenyan industries will be vulnerable to unfair competition with the EU. These industries include food processing, textiles, paper and printing. Under the EPA **over 100,000 KENYAN WORKERS** in the Manufacturing and Industry sector **will lose their jobs**. This would seriously undermine the government's efforts to create 500,000 jobs a year.

- **FACT 3: OVER 5 MILLION KENYANS** who depend on **maize, wheat, rice and dairy farming** will also lose their livelihoods.
- **FACT 4: Loss of livelihoods and employment will contribute to the violations of the right to life, the right to work, the right to food, the right to education, the right to health, the right to adequate housing and the right to live a dignified life.**
- **FACT 5: The Kenyan government stands to lose 8% to 12% of total government revenue.** In the financial year 2005/06 the total government revenue was Kshs. 376 billion using this figure the country then stands to lose between **Kshs. 30.08 billion to Kshs. 45.12 billion.** The loss of this revenue could have catastrophic impacts on critical sectors such as education, agriculture and health
- **FACT 6: The EPA makes a mockery of the Human Rights obligations of the Kenyan government and the EU to promote universal respect for, and observance of fundamental human rights and freedoms. The Kenyan government has an obligation to its citizens to respect and protect life as explicitly stated in the Constitution and to achieve the FULL realization of the rights enshrined in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.**

The Kenya Human Rights Commission (KHRC) and Kenya Small Scale Farmers Forum (KESSF) will assemble outside the offices of **Hon. James Orengo** at **Lonhro House** along **Standard Street on 13<sup>th</sup> November 2007 at 8:30 am** and proceed to the **High Court** for the hearing of this Case.

[Doc: FLASH NEWS Media Alert for 13<sup>th</sup> November 2007, KHRC sues gov.]

[Doc: FLASH NEWS Media Alert for 25<sup>th</sup> October 2007, KHRC sues gov.]

#### **7.8.7. EPA FLASH NEWS - 1<sup>ST</sup> EAC EC MEETING ON NEGOTIATIONS OF AN EPA: 14<sup>TH</sup> NOV, BRUSSELS - JOINT CONCLUSIONS**

The main purpose of the meeting was to take stock of the EPA negotiations in view of the impending expiry of the trade regime set out in the ACP-EC Partnership (Cotonou) Agreement, and to provide political impetus and guidance for next steps in the negotiations process.

[Doc: Flash News 14<sup>th</sup> Nov]

#### **7.9. EUROPEAN PARLIAMENT RATIFIES TRIPS AMENDMENT**

The European Parliament on 24 October endorsed an amendment to WTO intellectual property rules aimed at easing poor countries' access to essential medicines, after the EU's 27 member governments promised to help developing nations manufacture and import affordable drugs.

Legislators from across the political spectrum had thrice postponed voting on the amendment, pending additional pledges of monetary and political support for developing country public health programmes from EU member states and the European Commission (BRIDGES Weekly, 18 July 2007).

[Doc: EUROPEAN PARLIAMENT RATIFIES TRIPS AMENDMENT]



**7.10. ESA COUNTRIES ECONOMIC PARTNERSHIP NEGOTIATIONS, 12<sup>TH</sup> REGIONAL NEGOTIATING FORUM, 1 – 3 AUG 2007, MAURITIUS, FINAL REPORT**

The 12<sup>th</sup> Meeting of the Regional Negotiating Forum (RNF) was held at Le Morne, Mauritius from 1 to 3 August, 2007. The Meeting was attended by delegates from Burundi, Comoros, Congo DR, Djibouti, Eritrea, Ethiopia, Kenya Madagascar, Malawi, Mauritius, Rwanda, Seychelles, Sudan, Uganda, Zambia and Zimbabwe. The meeting was chaired by Mr. Baboo Madhub, Acting Assistant Solicitor General Mauritius. Ambassadorial Lead Spokespersons for Development, Market Access, Services, Fisheries, Trade Related Issues and Agriculture, and the Alternate Lead Spokespersons for Market Access and Trade Related issues and Fisheries, as well as the Mauritius Ambassador to WTO (Geneva) attended the meeting. The Secretary General of the ACP Secretariat attended the meeting. Others in attendance were representatives of the African Union, IOC and IRCC. The list of participants is attached as Annex I

4. The Secretary General underscored the critical importance of sequencing the negotiations according to the priorities set by the 3<sup>rd</sup> Joint ESA/EC Ministers meeting in Brussels in February 2007, namely, to ensure that a WTO compatible agreement is reached by December 2007 to avoid disruption of trade. He noted the need for EPAs to comprehensively address the developmental needs of ESA countries to enable a smooth implementation of EPA. He pointed out the necessity for scaling up efforts at both national and regional levels in view of the very limited timeframe remaining in implementing the ministerial conclusions.

[Doc: FINAL\_REPORT\_RNF\_ENG\_14\_08\_071 (2)]

**7.11. GAIN REPORT - KENYA BIOTECHNOLOGY REPORT 2006**



**1. Executive Summary**

Kenya has a Draft Biosafety Bill and Draft Biotechnology Policy. Advances in the approval of the Bill and adoption of the policy that will lead to regulation of biotechnology in Kenya are underway but no specific timeframe is provided by GOK.

[Doc: Article gov]

**11. Biotechnology Trade and Promotion**

Biotech research activities in Kenya range from use of tissue culture to production of disease free planting materials, molecular markers for disease diagnosis to biotransformation to producing insect and virus resistant crops. In addition, there are ongoing activities in public outreach and in developing a functional Biosafety regulatory system. The later involves Biopolicy formulation and development of a national Biosafety bill. Kenya



has not commercialized any bioengineered crops but produces several tissue culture derived crops including bananas, sugar cane, and vanilla. There is ongoing research in development of GM crops, which are the various stages of Research and Development. These include Bt maize (confined field trials), viral resistant transgenic sweet potato, cassava resistant to the cassava mosaic virus, and Bt cotton (has undergone one

season of confined field trial). It is hoped that in the next decade Kenya will commercialize some of these transgenic products.

The U.S. exported transgenic products to Kenya in 2005. These include shipments under the McGovern Dole Food for Education Program, USAID food aid programs (Title 11, Food for Progress). The products are soybean/products and corn/products.

[Doc: GAIN Report - Kenya Biotechnology Report 2006]

## 8. CONCLUSION

Many rich countries regard themselves as a panacea for the world's 'poor,' but their altruism is inverted Robin Hood. The free trade they applaud is a labyrinth of snares, detours and dead ends. And because of a biased and unjust world trade regime they continue to fill their pockets while ripping-off and reaping from the world's poorest people.

Through several initiatives and actions HTAT Kenya has made notable progress towards ensuring that:

1. the right to health is recognized and protected in all trade agreements,
2. public health policies and principles are clear and legally binding,
3. mechanisms for civil society participation in health and trade are strengthened and enhanced, and
4. the public is informed and engaged through the dissemination of health and trade information in accessible ways.

States have an obligation to promote, respect and fulfill the equal, inalienable and fundamental human rights of their citizens. In the coming months we will continue to build upon the achievements already made and redouble our efforts towards ensuring all trade agreements are human rights consistent and development orientated, maximizing health benefits and minimizing risks, especially for poor and vulnerable populations.

***'Protecting Health, Promotes Wealth' HTAT Kenya***



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