

22 January 2024

Dear Member of the European Parliament,

The undersigned 44 organizations, active on international solidarity, are writing you to express our deep concern about the proposed ratification of the EU-Kenya Economic Partnership Agreement (EPA).

**We are convinced that the deal**, presented by the European Commission as “contributing to sustainable and fair economic growth”, **will undermine the regional integration of the East-African Community (EAC) and hamper its right to develop its economy in a sustainable and fair way.**

**Firstly**, the EPA with the East African Community, on which the EU-Kenya agreement builds, failed to be ratified in 2016, with EAC member states recognizing that local industries would not be able to withstand competitive pressures from EU firms, locking the region even further in its role of provider of low-value-added primary commodities. It was calculated that the welfare in the EAC would decrease while the EU would register a welfare gain of \$212 million<sup>1</sup>.

The Kenyan interest in preferential market access to the EU can be attributed to its European-dominated export-oriented sector such as for example flowers. The use of agricultural resources such as land and water in this sector hampers Kenya's need to promote agriculture that enables it to reduce its dependence on for example grain imports. The price of this preferential market access is the liberalization of sectors such as fishing, from which a large proportion of people from the EAC obtain their protein, and above all industry, which has the greatest potential to create jobs in a country with a very young population. Moreover, the *rendez-vous* clause in areas such as services could render Kenya at a competitive disadvantage in the long run and would undo strides achieved in the WTO to protect least developed countries from harsh competition in such sensitive sectors.

**Secondly**, considering Kenya is part of the customs union of the EAC -which ensures free flow of goods between the countries-, the enforcement of the agreement would lead to a flow on European goods to all EAC countries through Kenya, given the difficulty to enforce rules of origin and the safeguards that the partners have introduced into the text. Indeed, products from illegal or informal trade as well as processed goods are difficult to trace back to their origin. That aforementioned products will be subject to the EAC Common External Tariff is unconvincing. EAC imports could indeed decline by \$42 million<sup>2</sup> if these border measures fail to deliver on their promise.

There is reason to believe they will do so. For example, Cote D'Ivoire and Ghana implemented an interim EPA with the EU which facilitated the flow of milk powder in these countries. Subsequently, the ability of countries like Burkina Faso, Nigeria and Senegal -who did not sign an EPA but are in a customs union with Cote D'Ivoire and Ghana- to cover their milk consumption needs by domestic production decreased from 80% to 69%, 41% to 21% and 33% to 21% respectively over the last two decades<sup>3</sup>. The competitive pressure from cheaper milk powder, which finds its way across borders through processed goods, undermines the ability of these countries to ensure food security.

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<sup>1</sup> <https://www.tralac.org/news/article/11545-un-body-warns-region-against-signing-trade-deal-with-eu.html>

<sup>2</sup> <https://www.tralac.org/news/article/11545-un-body-warns-region-against-signing-trade-deal-with-eu.html>

<sup>3</sup> Oxfam (2024). Quelles politiques commerciales et fiscales au service du développement durable des chaînes de valeur lait local en Afrique de l'Ouest.

**Thirdly**, even if Kenya and its partner countries are able to effectively enforce the border safeguards and rules of origin, which the EC hopes to be the case, this agreement effectively undermines the efforts of EAC states towards regional integration. Since regional economic integration requires a customs union -as the EU did-, a trade deal with one of the member countries -in this case Kenya- requires the EAC bloc to give up on its ambitions in this area<sup>4</sup>. For this reason, the EU would never allow its member states to sign bilateral trade agreements. A mutual closure of borders between Kenya and the other EAC countries cannot be ruled out.

Moreover, Kenya's move might be in breach of the Customs Union Protocol and the Common Market Protocol of the EAC<sup>5</sup>. On top of that, its interpretation of the variable geometry principle might be flawed on two levels. Firstly, the principle is intended to be evoked only between members of the EAC and not with third parties like the EU<sup>6</sup>. Secondly, EAC heads of state decided in February 2021 that Kenya was allowed to invoke the principle to implement the standing EPA, but not necessarily to open new negotiations.<sup>78</sup> The negotiations between Kenya and the EU have already exacerbated tensions in East Africa. The implementation of the EPA will exacerbate this situation.

**The EU strategy of isolating individual African countries in the hope that other countries in the region will join the agreement with the country under pressure has so far not produced any positive outcome.** On the contrary. As long as the EU does not recognise regional developments, historical inequalities and the shared but differentiated responsibility of countries to climate change in its trade agreements, it will never be truly seen as a 'partner'.

**We therefore call upon Members of European Parliament to vote against the EU-Kenya EPA and send a strong signal to the European Commission that its constituents want truly fair, just and sustainable trade deals.**

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<sup>4</sup> <https://www.afronomicslaw.org/2019/05/30/the-eu-eac-economic-partnership-agreement-standoff-the-variable-geometry-question>

<sup>5</sup> "Under [Article 12 of the East African Customs Union Protocol \(CU Protocol\)](#), EAC members are obliged to maintain a Common External Tariff (CET). If some EAC members implement the EPA, and others do not, EAC members will no longer maintain the same external tariffs and thus violate the CET."

[https://www.researchgate.net/publication/322799130\\_The\\_EAC-EU\\_EPA\\_and\\_Brexit\\_Legal\\_and\\_Economic\\_Implications\\_for\\_EAC\\_LDCs](https://www.researchgate.net/publication/322799130_The_EAC-EU_EPA_and_Brexit_Legal_and_Economic_Implications_for_EAC_LDCs)

<sup>6</sup> [Article 7.1\(e\) of the EAC Treaty](#) states: "the Principle of variable geometry which allows for progression in co-operation among groups within the Community [See also art. 1 and 2] for wider integration schemes in various fields and at different speeds".

<sup>7</sup> <https://www.eac.int/communique/1942-communicue-of-the-21st-ordinary-summit-of-the-east-african-community-heads-of-state>

<sup>8</sup> <https://riviste.unimi.it/index.php/milanlawreview/article/download/17394/15311>

Yours truly,

11.11.11-Coalition for International Solidarity,  
Belgium  
ActianAid, France  
Action Solidarité Tiers Monde (ASTM),  
Luxembourg  
ActionAid International Kenya, Kenya  
Africa Mythlab Institute, Kenya  
Aitec (Association internationale de  
techniciens, experts et chercheurs), France  
Alofa Tuvalu, France & Tuvalu  
Attac Austria, Austria  
Attac España, Spain  
Attac France, France  
BLOOM, France  
Bündnis für gerechten Welthandel, Germany  
Civil society coalition on Transport Uganda,  
Uganda  
Civil society Reference Group, Kenya  
Colibri - Beiträge für eine  
menschenwürdigere Welt e.V., Germany  
Collectif Stop CETA/Mercosur, France  
Confederación General del Trabajo (CGT),  
Spain  
Confédération Générale du Travail France  
(CGT), France  
Dachverband Entwicklungspolitik Baden-  
Württemberg, Germany  
Dukingire Isi Yacu, Burundi  
Ecologistas en Acción, Spain

Entraide et Fraternité, Belgium  
Eusko Langileen Alkartasuna (ELA), Basque  
Extinction Rebellion France, France  
Fair Trade Advocacy Office (FTAO), Belgium  
Fairwatch, Italy  
Fédération Artisan du Monde, France  
France Nature Environment, France  
Global Aktion, Denmark  
Humundi, Belgium  
Kenya Debt Abolition Network, Kenya  
Kenyan Peasants League, Kenya  
Kirchliche Arbeitsstelle Südliches  
Afrika/Werkstatt Ökonomi, Germany  
Les Amis du Monde diplomatique, France  
Naturefriends Greece, Greece  
Oxfam, Nairobi, Kenya - Brussels, Belgium  
PowerShift e.V., Germany  
ReAct Transnational, France  
Southern and Eastern Africa Trade  
Information and Negotiations Institute  
(SEATINI), Uganda  
Transnational Institute (TNI), The  
Netherlands  
TROCA - Plataforma por um Comércio  
Internacional Justo, Portugal  
Uganda land owners Association, Uganda  
Védegylet Egyesület / Protect the Future  
Association, Hungary  
ZEA, Franc

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