Dear Member of the European Parliament,

The undersigned 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 million¹.

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 unduly 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 million² 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. 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.

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. 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. 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. 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. 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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3 Oxfam (2024). Quelles politiques commerciales et fiscales au service du développement durable des chaines de valeur lait local en Afrique de l'Ouest.
4 https://www.afronomicslaw.org/2019/05/30/the-eu-eac-economic-partnership-agreement-standoff-the-variable-geometry-question
5 “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.”
6 Article 7.1(e) of the EAC Treaty states: “the Principe 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”.
8 https://riviste.unimi.it/index.php/milanlawreview/article/download/17394/15311
Yours truly,

11.11.11-Coalition for International Solidarity, Belgium
ActionAid International Kenya, Kenya
Africa Mythlab Institute, Kenya
Aitec (Association internationale de techniciens, experts et chercheurs), France
Attac Austria, Austria
Attac France, France
BLOOM, France
Bündnis für gerechten Welthandel Mannheim, Germany
Bündnis für gerechten Welthandel, Germany
Civil society coalition on Transport Uganda, Uganda
Colibri - Beiträge für eine menschenwürdige Welt e.V., Germany
Collectif Stop CETA/Mercosur, France
Confédération Générale du Travail France (CGT), France
Dachverband Entwicklungs- und Menschenrechtsbeobachtung, Germany
Dukingire Isi Yacu, Burundi
Ecologistas en Acción, Spain
Extinction Rebellion France, France
Fair Trade Advocacy Office (FTAO), Belgium
Global Aktion, Denmark
Kirchliche Arbeitsstelle Südliches Afrika/Werkstatt Ökonomi, Germany
Les Amis du Monde diplomatie, France
Oxfam, Nairobi, Kenya - Brussels, Belgium
PowerShift e.V., Germany
Southern and Eastern Africa Trade Information and Negotiations Institute (SEATINI), Uganda
TROCA - Plataforma por um Comércio Internacional Justo, Portugal
Uganda land owners Association, Uganda
Védegyeteg Egyesület / Protect the Future Association, Hungary
ZEA, France

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