JUMUIYA YA AFRIKA MASHARIKI

EAST AFRICAN COMMUNITY
EAST AFRICAN LEGISLATIVE ASSEMBLY

RESOLUTION OF THE EAST AFRICAN LEGISLATIVE ASSEMBLY URGING THE COUNCIL OF MINISTERS TO ENGAGE FURTHER WITH THE EUROPEAN UNION TO ADDRESS PERTINENT ISSUES RAISED BY THE ASSEMBLY

By Hon. Dr. James Ndahiro and adopted by the Assembly on Wednesday 23rd May, 2012

AWARE that the European Partnership Agreement negotiations are still ongoing and there is now a rallying call from the European Union (EU) to conclude the negotiations without due regard to addressing the contentious issues that the Assembly has previously raised;

FURTHER AWARE that there is a stalemate in the technical negotiations on some issues. These issues are **areas of concern** to this Assembly and they are the following among others-

- The high level of liberalization EU is asking of the East African Community.
- The inability to introduce new export taxes.
- The Most Favoured Nation (MFN) clause which will have an impact on our ability to have South-South cooperation and other trade agreements.
- The Development Chapter where Europe refuses to take on binding and additional commitments.
- The Chapter on Labour and Environment that could oblige EAC countries to sign and implement more than a dozen additional international treaties. A dispute settlement article is also included in this chapter to enforce these commitments.

- The Chapter on Agricultural where the EU continues to refuse addressing their yearly 80+ billion Euro domestic support even as they want the EAC to develop commercial agricultural markets in the region.

DEEPLY CONCERNED about the ramifications on the region's long-term economic developments as well as regional integration and trade and customs operations, if the contentious issues are not addressed;

CONCERNED THAT some clauses, as the Assembly has reiterated before, will have a negative impact on the region's existing local production and long-term industrial development, as well as, the region's agricultural production and food security needs and tariff revenues;

NOTING that whilst the EAC region wants to have continued access to the EU market and this access can support the region's development, the EAC still suffers from chronic supply-side constraints and challenges. Access to the EU markets would not therefore be equivalent to the region's automatic entry to that market as evidenced by various research reports all pointing to the fact that:-

i) The losses of signing the EPA outweigh the gains; and

ii) EAC's production and regional trade would be negatively impacted. Of interest are:

a) In the EAC region, if an EPA is implemented, the tariff revenue losses will amount to approximately USD 301 million yearly (although this is an underestimation as imports are increasing). Kenya's tariff revenue losses alone will be about USD 193.8 million a year.

   The 'benefit' of the EPA is the duty-free access to the EU market that Kenya as the only non-Least Developed Countries (LDC) will receive. Without the EPA, exports from the LDCs in the EAC will not incur additional duties due to the EU's duty-free quota-free and Everything But Arms (EBA) scheme for all LDCs. This 'benefit' for Kenya, of duties avoided, according to European Commission figures, amounts to 43 million Euros a year. This is much smaller than Kenya's tariff revenue losses under the EPA.

The EPA therefore will lead to more losses than gains for Kenya and all the LDCs in the EAC. In addition to tariff revenue losses, there will also be other losses in terms of future industrial development, current local production, food security risk etc.

b) Current local production and regional trade will be put at risk. Out of the 5,051 tariff lines (on the 6 digit Harmonized System level), the EAC has local production in 2,144 lines. Out of these, 1,400 lines will be liberalized under the EPA (tariffs brought down to zero). The EU is still more competitive in 1,100 of these lines.

FURTHER NOTING that the following but not limited to the sectors below where there is at present substantial trade will be negatively impacted due to EPA liberalization:-

- Processed oil products – petroleum distillates, aviation spirit.
- Chemical products for agriculture – urea, fertilizer, fungicides, rodenticides.
- Commodity chemicals – diammonium phosphate, ammonium sulphate, silicates of sodium, carbon dioxide, polyethers.
- Intermediate industrial products – bars and rods, parts of boring or sinking machinery, articles for conveyance or packing of goods (of plastic), insulated winding wire, co-axial cable and other co-axial electric conductors, angles, shapes and sections, tubes and pipes, hot rolled iron and steel, boards and panels.
- Medicines, vaccines, antibiotics.
- Vehicle industry – Trailers and semi-trailers, wheel tractors.
- Agricultural products – maize starch, seeds for sowing, barley.
- Books, brochures, leaflets and similar printed matter.
- Final industrial products – liquid dielectric transformers.

FURTHER NOTING that the 2,907 tariff lines for which the EAC does not presently have local production will also be put at risk because tariffs will mostly be eliminated for these products under EPA.

AND TAKING INTO CONSIDERATION all the good points raised by the EALA Committee on Communications, Trade and Investments which,

i) Notes all of these risks that the EPA poses for the region. In particular the Committee and EALA at large is very concerned that our regional integration efforts will be severely undermined if one of the EAC Partner State signs the EPA while the rest, the LDCs do not. At the same time, it would be ill-advised for the LDCs in EAC and even Kenya to sign the EPA and undertake such deep liberalization commitments.

ii) Notes the commitments in the Cotonou Agreement taken by the EU and ACP countries to support regional integration. The AU *'proposal for a Common and Enhanced Trade Preference System for Least Developed Countries (LDCs) and Low Income Countries (LICs)'* adopted by AU Trade Ministers in Accra in 2011 supports regional integration and provides a timely and credible alternative to EPAs. It suggests a very marginal improvement to the already existing preferences the EU provides to all LDCs, calling for the EBA to be extended also to LDC regions. The EAC, where 4 out of 5 countries are LDCs, is such an LDC region. The EBA should therefore be extended to Kenya. Kenya is not materially that different from the LDCs in the region. It was found to be a 'borderline' case – it could have become an LDC when the UN's Committee for Development Policy made its assessment in 1991. If it had joined the LDC category then, it would not yet have graduated.

THIS ASSEMBLY THEREFORE do resolve as follows:-

1. The EAC Council of Ministers engages further with the EU to address the pertinent concerns raised in this and the previous resolution on EPAs and most importantly look towards providing the alternative solution that Africa has already put forward-the EBA which, should be extended to the LDC regions.

2. The Council is further urged to engage with the EU to pursue a political intervention at the highest level especially on lobbying for the withdrawal of amendment to the Market Access Regulation (EC) 1528/2007 which threatens to lock some countries out of the European market noting that, the technical angle is grinding to a halt.

3. The Council should proceed to conclude the negotiations ONLY after the full and formal resolution of the contentious issues.

4. The Clerk of EALA is directed to transmit this Resolution to the National Assemblies/Parliaments for their debates and further appropriate action.

5. The Secretary General is directed to forward this Resolution to the EAC Council and the negotiators for implementation and to issue a status report to the Assembly every four months until the signing of the EPAs.

CERTIFIED BY:

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ALEX OBATRE
DEPUTY CLERK