

**Letter by Civil Society Groups from Egypt, Tunisia, Morocco, Jordan, and other Arab Countries**

**Subject:** The 'Deep Free Trade Agreements' Proposed by the European Union

**Date:** February 9<sup>th</sup>, 2012

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***The Proposed 'Deep Free Trade Agreements' by the EU Could Represent a Backlash Against Democratic Transition Processes in the Arab Region***

We, a group of concerned human rights and development civil society organizations from the Arab region, write to you concerning the EU trade and investment strategy for the Southern Mediterranean.

We have received with concern the information regarding the approved mandate of the European Commission to start negotiations towards establishing 'deep and comprehensive free trade agreements', which extend to cover investment protection, government procurement, and competition policy<sup>1</sup>.

While these decisions are pursued at the EU level, peoples of various Arab countries, including Egypt, Tunisia, Morocco, and Jordan have come out to demonstrate their rejection of the political as well as economic and social models of governance in their countries, through revolutions and mobilizations that started at the end of 2010 and continue into 2012. For people in the Arab countries and civil society groups active across the Arab region, the revolutions continue until economic and social models are re-established to prioritize peoples' right to development and justice.

Within this context, civil society groups from the Arab region have previously noted in a letter commenting on the "More for More" approach and raised to the EU officials under the title: "*What Does 'More' Stand For and How to Ensure Economic Policy Conditionality is not Exercised?*"<sup>2</sup> that "*while the economic situation in countries like Egypt and Tunisia might have witnessed certain set backs in the time of the transition, there is a need to consider that the long term economic and development transition necessitates a vision for re-establishing the economic and development model and not to re-stabilizing the model drawn by previous regimes, which clearly did not serve the development rights and needs of the people, and under which poverty, unemployment, and inequalities continued and deepened in many areas*".

Support for economic growth should be rooted in support of people's choices to a revised economic model, where productive capacities, redistribution mechanisms, employment and wages take forefront. For such purposes, trade and investment policies established by the previous regimes need to be revised in order to serve a development vision and not concentration of economic powers in the hands of the few.

However, the EU continues to push a trade and investment agenda that have proved unsupportive of development needs of its partner countries, and that could override national democratic transition if maintained or deepened. This includes the agenda of negotiating liberalization of trade in services that have already started, as well as initiating negotiations in the areas of investment, government procurement, and competition policy.

It is important to note that the proposal for 'deep and comprehensive free trade agreements' with Southern Mediterranean Arab countries is not a new one and accordingly is not designed to serve the specific economic and social needs that these countries are

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<sup>1</sup> See: <http://trade.ec.europa.eu/doclib/press/index.cfm?id=766> (Brussels, 14<sup>th</sup> of December 2011)

<sup>2</sup> Available at: [http://www.annd.org/userfiles/file/latestnews/General-%20CS%20reaction%20to%20CSF\\_SPRING%20initiatives-%20October%202011-%20FINAL.pdf](http://www.annd.org/userfiles/file/latestnews/General-%20CS%20reaction%20to%20CSF_SPRING%20initiatives-%20October%202011-%20FINAL.pdf)

facing at this stage. In fact, this proposal was put forward by the EU Commission in a non-paper entitled “ENP- A Series of Deep Free Trade Agreements as a Path towards a Neighborhood Economic Community (NEC)” during the year 2007. Back then, civil society groups have critiqued this proposal for lack of rights-based and developmental considerations, potential negative impacts on policy space, lack of addressing the political and economic contexts and priorities of Arab countries, and lack of sound partnership mechanisms<sup>3</sup>. Accordingly, these are not new proposals, but a mere repackaging of old proposals that have been previously faced by significant opposition. Moreover, proposals to include negotiations on investment, government procurement, and competition policy under the multilateral process of negotiations at the World Trade Organization have for many years faced significant opposition from developing countries, including governments and peoples.

Within this context, the undersigned organizations call upon European Member States, members of the European Parliament, and officials at the European Commission to consider the following concerns:

- Negotiations on any new trade or investment agreements should not be undertaken before new constitutions are established in the Arab countries witnessing transition, and before a development model for these countries is established with priority given to peoples’ economic and social rights. It is fundamental for the democratic and development process in Southern Mediterranean countries to re-establish trade and investment policies in alignment with the development levels achieved by these countries, whereby they would be tailored and managed to serve the revised development paradigm called for by the peoples in the Arab region.
- Any steps that over-ride this approach are considered a backlash on democratic transitions and result in negatively impacting policy space that citizens of these countries have re-established through their revolutions and continuous mobilizations.
- There is an urgency to stop the ‘business as usual’ approach to trade and investment and to re-establish these policies and instruments to support a nationally nurtured development and economic policy. This necessitates a full assessment- based on a human rights and development approach- of the outcomes of existing agreements and any future ones<sup>4</sup>. As noted by the UN Special Rapporteur on Right to Food *“human rights impact assessments can help governments determine whether new or existing trade and investment agreements will undermine their human rights obligations. Ensuring consistency between human rights obligations and trade and investment agreements is essential at the stage of negotiation of such agreements. Otherwise, because of the stronger enforcement mechanisms in trade and investment regimes, human rights obligations risk being set aside when conflicts arise”*<sup>5</sup>.
- While the EU is currently undertaking the ‘scoping exercise’ with the aim of assessing the countries’ readiness to start negotiations on ‘deep and comprehensive free trade agreements’, and while the European Parliament asked the Commission to include the eligibility criteria of the ‘More for More’ as part of the process of preparation for negotiations, it is imperative to underline the importance of including a full assessment of human rights and development implications before any negotiations proceeds.
- This applies to Morocco and Jordan as well, where new negotiations should not be undertaken without proper human rights and development assessments of the existing

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<sup>3</sup> See the Comments prepared by the Arab NGO Network for Development on the “ENP- A Series of Deep Free Trade Agreements as a Path towards a Neighborhood Economic Community (NEC)” (15<sup>th</sup> of May 2007), available with the organization.

<sup>4</sup> It is important to recall the findings of the Sustainability Impact Assessment of the Euro-Mediterranean Free Trade Area (2007) [[http://trade.ec.europa.eu/doclib/docs/2006/november/tradoc\\_131340.pdf](http://trade.ec.europa.eu/doclib/docs/2006/november/tradoc_131340.pdf)], which indicated several negative impacts of the existent agreements between the EU and Southern Mediterranean countries, including a significant rise in unemployment, a fall in wage rates associated with increased unemployment, a significant loss in government revenues, with consequent social impacts through reduced expenditure on social services, and greater vulnerability of poor households. No revision of the existent agreements was undertaken in light of the findings, nor any mitigation measures or compensation mechanisms were set in place.

<sup>5</sup> Statement by Olivier De Schutter -UN Special Rapporteur on the Right to Food - in the Report of the Expert Seminar, June 23-24, 2010 on Human Rights Impact Assessment for Trade and Investment Agreements.

agreements, with a participatory process that genuinely engages stakeholders and civil society from various sectors.

- While the Arab countries are seeking to revise their constitutions and their development plans, they are also addressing their regulatory capacities to serve the public interest and to redress violations of citizens' economic and social rights undertaken under previous regimes as well as exploitation of the countries' national resources and economic assets. As long as the EU Commission did not progress on the process requested by the European Parliament<sup>6</sup> (including to secure a model of agreements in investment that respect the capacity for public intervention; clarify the definition of 'investor' in order to redress any negative impacts on public interest and the sovereign right to regulate, avoid protection of speculative forms of investment and forms of investment resulting in abusive practices, and making the dispute settlement regime more transparent, more inclusive, including the obligation to exhaust local remedies) then initiating negotiations on agreements in investment with Arab countries will have significant negative implications on policy space in these countries.

- Moreover, protecting the development policy space of developing countries involved in these agreements cannot be achieved and guaranteed through the sole inclusion of the chapter on sustainable development or clauses addressing human rights and social and environmental responsibilities in the agreements. It is essential to ensure the integration of human rights and development considerations in decision-making throughout the policy formulation, design, and implementation, including checking and adapting the processes related to trade and investment agreements.

- It is important to note that the four countries covered by the new mandate of the European Commission are part of a broader trade project entitled the Pan-Arab Free Trade Area, which involves free trade in goods and is currently negotiating a regional trade agreement in services. Besides, they are involved in the South-South Agadir process. In light of this context, it is important that any further bilateral negotiations between these countries and the EU do not hinder the process of achieving an added value regional agreement, nor legally contradict or weaken the process of establishing a regional agreement on trade in services.

- Overall, the undersigned organizations perceive that the model of investment agreements proposed by the EU remains skewed towards the sole aim of providing unconditional maximum protection to the European investors and investments abroad, carries significant threats to democratic processes, public policies and public interest, and fails to evolve into a policy instrument that supports sustainable, productive, and employment-generating development. The EU is invited to seek more consultations with developing partner countries, including all relevant stakeholders- a priori and ex-ante- to assess the real necessities and potential outcomes.

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<sup>6</sup> European Parliament resolution of 6 April 2011 on the future European international investment policy ([2010/2203\(INI\)](#)).