

**SUBMISSION FROM THE ARAB NGO NETWORK FOR DEVELOPMENT (ANND)  
On selected Questions from the Public Consultation on a New Trade and  
Development Communication 2011**

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**Trade, inclusive growth and development**

*1. How could the EU support developing countries better integration into the world economy?*

ANND contribution:

Supporting developing countries' integration into the world economy necessitates addressing the developmental challenges they are facing. This would require eliminating the barriers restricting increase of their exports and trading capacities, which starts with addressing (1) productive capacities and the strategies for building balanced and efficient productive sectors that can combine two objectives including providing needed jobs nationally and identifying the sectors that can compete regionally and globally and (2) addressing the barriers for access to EU markets including for example the barriers and unfair competition in the agricultural sector due to the high subsidization of the agricultural sector by the EU.

Partnerships and cooperation frameworks between the EU and developing countries ought to achieve higher alignment and coherence between policies related to trade and those focused on development objectives like poverty eradication, social services improvement, employment generation, and equity enhancement. This in turn requires a conscious decision to avoid imposing free trade policies where they do not serve developmental purposes or where they hinge on policy space necessary for countries to use various policy tools needed to achieve nationally decided development objectives.

Moreover, EU policy ought to support regional cooperation and integration frameworks among developing countries, not merely in a declaratory way, but also in practice. Accordingly, EU trade policy ought to be aligned with the space and time needed to foster such regional cooperation and should not over-ride the process by accelerating bilateral free trade with developing countries undertaking such regional projects.

*2. What policies and reforms in developing countries are needed to ensure that trade liberalisation improve those countries' prospects for inclusive growth? In this context, how could EU policies contribute to improving domestic resource mobilisation in developing countries?*

ANND contribution:

To benefit from international trade, developing countries need to draw their trade policy within a broader macroeconomic framework aligned with development strategy that encompasses a dynamic growth path, which includes productive sector development and employment generation. This in turn necessitates the proper capacities at the technical and policy levels to ensure that the national policy making is well coordinated across sectors and responsible institutions.

EU policies could contribute towards such ends through ensuring that EU decisions on cooperation with partner countries are based on democratic, representative, and

participatory national processes, and not over-burdened by political pressures. Investing in human rights and development based assessments of the decisions regarding trade and investment is an added value in terms of ensuring that these decisions serve the broader rights and development objectives. Results from such assessments should inform the process of revising trade and investment agreements and/or establishing new ones.

Domestic resource mobilization necessitates that national governments preserve the policy tools that allow them to put in practice the decisions to mobilize domestic resources. In this respect, EU policies could contribute to this process through avoiding putting pressure on developing countries to liberalize sectors that present significant revenues or development added value to many countries.

*4. What can be done to ensure that the gains from greater trade and investment are more evenly distributed, especially to the worst-off groups in developing countries? (optional)*

ANND contribution:

Such objective could be served through:

- Rooting trade and investment policy making and decisions in development objectives, thus ensuring trade and investment create adequately paid jobs not shrink job opportunity or cause a race to the bottom in terms of workers rights.
- Supporting the strengthening of redistribution policies and tools, including supporting efforts to avoid tax evasions by multinational companies benefiting from freer trade and investment arrangements, and enhancing the campaigns against tax haven and developing and implementing the needed regulatory frameworks on tax havens and the institutions benefiting from them.
- Inclusion of all relevant stakeholders in decision- making processes and in periodical objective assessment of the impact of trade and investment on employment and other development factors. Basing decisions in this area on such ex-ante and ex-post systematic studies that assess the benefits of various vulnerable groups from trade and investment decisions and seek to adjust decisions based on indications resulting from the assessments.

*5. The EU pursues a comprehensive approach to trade negotiations with developing countries encompassing services, investment and trade, related issues (e.g. competition policy, innovation and intellectual property rights, public procurement, good governance in the tax area, environmental and social aspects). Should this approach be maintained or adjusted?*

ANND contribution:

The EU approach ought to be adjusted to reflect higher consideration of the development levels and capacities that partner countries have arrived at. Developing countries have collectively expressed (under the context of the WTO negotiations for example) their limited abilities to take liberalization commitments in areas like competition policy, public procurement, investment, as well as extensive commitments in the areas of intellectual property rights and services without hampering their development outcomes. Developing countries should not be pressured to liberalize these sectors on a bilateral level with the EU. It is worth considering that when developing countries are obliged to offer such concessions under the context of trade negotiations with the EU, they loose their ability to keep their position under the multilateral context of trade negotiations. Such trade and

investment liberalization decisions taken as a result of political pressures within a negotiations context often override the development objectives targeted by the EU and limit national policy space for development in partner countries.

*6. What approach to the increasingly differentiated developing world would be the most successful to reduce poverty worldwide?*

ANND contribution:

Rooting trade policy and agreements in development objectives and aligning the depth of these agreements with the level of development that countries have arrived at inherently holds a differentiated approach to developing countries and integrates a consideration of the poverty-reduction objectives that developing countries hold.

## **Investment**

*8. Should EU trade policy and negotiations aim to establish open and stable conditions for investing in partner countries, including developing countries? And should the EU differentiate to take account of trade partners' development level and if so, what criteria should it use?*

ANND contribution:

While FDI could play an important role in growth and development, the legal framework currently being developed worldwide through bilateral, regional, and plurilateral investment treaties have presented a model that is skewed to protect the investors and not providing a framework that secures the developmental outcomes of this FDI (in terms of transfer of technology and know-how, increasing production in productive sectors, ensuring more jobs for locals...). Moreover, these negotiations and agreements do not take the national policies and development needs of developing countries into consideration. The EU must seek more consultation with developing partner countries, including all relevant stakeholders- a priori and ex-ante to assess the real necessities and the outcome.

Investing in partner countries should respect the partner countries' development levels and needs should include criteria that relate to the obligations of investors regarding labor rights, laws that protect the environment and consumers, taking into consideration the environmental or social problems that might arise, and rights of local communities where investments might be taking place. For those purposes, EU should ensure that European investors do not challenge public interest policies, while enhancing their engagement with Greenfield investments and long term productive investments instead of speculative ones.

*9. How else can the EU tailor its investment policy to promote and sustain inclusive growth in the developing world?*

ANND contribution:

In order to promote and sustain inclusive growth, EU's investment policy must contribute to productive cycles and must avoid protection of quick short-term investments that can contribute to de-stabilizing the economy. This would also require adoption of investment policies oriented to promoting growth, investment and employment opportunities. Moreover the investment policy must contribute to overcome challenges on human and institutional capabilities in developing world.

Besides, investment agreements that the EU seeks ought to have enforceable clauses on the responsibility of investors to respect national environmental and labor rights and laws, and sanctions for tax evasion or corruption by investors. Furthermore, the EU investment policy should not skew the power to the benefit of private investors, but ought to protect sovereign rights of partner countries in terms of regulating for public interest objectives.

*10. And how can it best encourage Corporate Social Responsibilities practices by investing enterprises and their suppliers, while adapting to different national and regional contexts?*

ANND contribution:

The EU should encourage a mandatory and a systemic nature for corporate social responsibility of companies versus the voluntary nature of these responsibilities that currently exist. This would include obligations upon companies for (1) reporting on environmental and human rights impact to become a norm similar to reporting on financial processes (2) widening the concept of corporate social responsibility to include due diligence obligations throughout the process of operation, including over any horizontal supply chain within a certain company, along with remedies to the impacted. Reporting requested from mother companies located inside the EU should cover as well subsidiaries located in third countries. Reporting should identify risks and describe steps to be taken to avoid risks. Moreover, the EU should push towards practices by its investing companies that is proactive in avoiding any social damage and that is not limited to provision of afterwards compensation in case of violations or damage.

## **Services**

*11. What conditions are needed for the service sector improvement in developing countries? And what conditions are required for that improvement to enhance growth prospects, boost employment and reduce poverty? What specific conditions, if any, are necessary for the LOCs*

ANND contribution:

Services' sectors improvement in developing countries necessitate adequate investments in these sectors with long term vision of enhancing competitiveness in certain sectors. Ongoing negotiations with the EU in this area could lead to liberalization in areas that are not well regulated yet in developing countries, such as financial services as well as public services sectors. This could weaken the governments' abilities to protect these sectors from external shocks and to increase their services' sectors competitiveness. It could also have a severe impact on adequate access to quality essential services (health, education, water, sanitation, energy, transport...), which hampers government's ability to serve its obligations under international human rights law. Adequate respect and promotion of the rights-based nature of the essential services sectors that impact the living conditions of the poor, such as health, education, agriculture and agro-industry as well as property rights in the use of technology and medicines, are core to enhancing growth prospects, boost employment and reduce poverty.

Developing the services sector in developing countries requires a clear assessment and development plan on a sector by sector bases, and study of the sectors' potential before any trade liberalization commitments are undertaken in this area. This includes identification of the needed regulatory capacities and benchmarks that

can secure the developmental outcomes of liberalizing the sector. This includes as well the need to accommodate the evolving nature of the regulatory process, which changes over time with the changes in the services markets. Assessment of the impact of liberalization commitments in the services sector ought to be mandatory and should inform the revision of the commitments based on their development outcome.

Negotiating trade in services, for it to contribute to growth, employment and reduction of poverty, should encompass movement of workers. One of the main challenges in the current negotiations on liberalization of trade in services is the ability to ensure a framework that addresses adequate and developmentally-effective liberalization of movement of persons. The EU approach tend to narrow the scope of temporary presence of service workers to cover only the managerial elite, professionals, technical experts and a limited category of contract service suppliers. This could indeed limit the job creation effect of trade liberalization and its spill over on the development front.

### **Public Procurement**

*12. What conditions are needed to ensure that, when developing countries open their public procurement markets, this enhances their growth prospects, boosts employment, and reduces poverty? Are these conditions the same for all types of developing country?*

ANND contribution:

Often developing countries do not have enough market size and capacity for manufacturing and services provision to be able to supply other countries' procurement markets. Opening public procurement markets regionally could be helpful as a first step, before opening to developed markets. While transparency and other reforms are important these can be taken unilaterally. In case of opening public procurement markets, developing countries should be allowed to maintain the use of preferences for national suppliers as a policy instrument in support of their development process. The conditions to enhance growth, employment and reduce poverty include supporting the development of local suppliers' capacities in developing countries and avoid building barriers in such a process. Furthermore, developing countries should be supported in costs they cannot comply with in terms of reforming the framework (transparency) rules through financial assistance and capacity building.

### **Trade and sustainable development**

*13. How can EU trade policy (continue to) support sustainable development in developing countries?*

ANND contribution:

Besides the alignment of trade policy with development levels and objectives of partner countries and respecting and securing needed policy space for development processes, there is a need to consider institutional frameworks to support this objective. Indeed, the fora and mechanisms for addressing such structural policy problematic is still lacking between the EU and its partner countries. With such an active trade and investment liberalization agenda, coherence with development policy cannot be achieved except if institutionalized cross sectoral dialogue at the

policy making level is undertaken, as well as institutionalized monitoring and assessment mechanisms that tackle the developmental outcomes of trade policies.

Moreover, given the EU legal obligation under Lisbon Treaty for compliance with human rights obligations (Article 207 of the Lisbon Treaty), impact assessments of trade policy and agreements should be adjusted to take into consideration human rights. Such work should involve lawyers and human rights experts. Moreover, it should be made possible to suspend liberalization should there arise violations of human rights. This necessitate mechanisms that can deal with a human rights cases as they arise.

While support of sustainable development necessitate that trade policy take into consideration human rights, standards to protect the environment, and management of natural resources, however, these standards and norms should not be invoked as non-tariff barriers in front of the goods and services from developing countries.

*14. Should EU trade policy specifically promote the respect of human rights in developing countries? If so, how*

ANND contribution:

In conducting trade policy, the EU should not overlook the obligations of States in regard to their citizens' full enjoyment of human rights, particularly economic, social and cultural rights and right to development. Thus, countries' three general obligations on the human rights- namely respect, protect, and fulfil should take precedence over the obligations under any economic or trade agreement (This is in accordance with the legal obligations under Article 103 of UN Charter, the Vienna Convention on Law of Treaties, the Lisbon Treaty, and the European Convention on Human Rights). The extraterritorial obligations of states under international human rights law oblige them not to sign agreements that limit policy space of other countries to respect, protect, and fulfil human rights. In this respect, the EU can promote the adoption and implementation of the UN guidelines on Business and Human Rights that are endorsed by the UN Human Rights Council.

Furthermore, trade negotiations ought to be built on well developed ex-ante and ex-post human rights- based assessments of the potential impacts of the trade liberalization on the developmental dimensions associated with the sector being addressed. For example, given the significant role of services in employment creation, the negotiations on liberalization of trade in services need to be associated with impact assessments on employment, including monitoring of the right to work and the impact of changes in structures and employment capacities in this sector.

In this regard, it can be noted that the indications in the EU Commission's paper entitled "Trade, Growth, and World Affairs" in regards to the necessity of consultation with civil society as part of EU policy-making and the embedding of impact assessments and evaluations in trade policy making is a positive indication that needs to be set in practice<sup>1</sup>. Moreover, the plans for organizing trade and industrial policy process to discuss horizontal cross sectoral issues, which was mentioned by Euro-Mediterranean Trade Ministers among their priorities for 2011, is a welcomed step towards enhancing sectoral policy coherence that ought to be pursued.

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<sup>1</sup> European Commission; "Trade, Growth, and World Affairs; Trade Policy as a Core Component of the EU's 2020 Strategy" [COM (2010) 612].

*18. What are the main factors limiting the involvement of women in trade in developing countries? How can trade and development policies address these constraints?*

ANND contribution:

The limited role of women in trade is linked to the overall shortcomings on the front of women economic empowerment in developing countries, which is rooted in various factors of traditional and societal conceptualization of the role of women as well as shortcomings on the legislative front, in labor markets, and economic cycles'. Trade and development policies can help address these constraints by contributing to breaking the cycles that enforce unequal opportunities (access to land, property, credit...) and discrimination in wages, working conditions, and social protection against women. While overcoming such contexts is not easy, trade and development policies encouraging the equal enjoyment of right to work for both genders would be an initial step. This would mean respect to economic and social rights of people as a basis for all development and trade policies and effective implementation of such policies on the ground in developing countries. This would necessitate assessment of impact of trade policy disaggregated on gender basis. Unfortunately, the experience so far has indicated that liberalization policies have enhanced the discriminatory factors impacting women.

### **Aid for Trade initiative**

*22. How could the EU make AfT more effective at country level?*

ANND contribution:

Aid for trade should be untied and detached from the political processes involved in a trade negotiations process and should be dispersed independently based on the priorities identified by the local stakeholders, with the participation of local civil society and local small and medium businesses. It should not be a reallocation of aid budgets that could have been dedicated to other developmental sectors such as education or health care. Thus, aid for trade should be made an ongoing part of foreign assistance such that it is a more predictable, long-term support for development. Moreover, additional effort is needed to ensure that aid for trade programs are structured to support trade strategies flow out of locally-designed national development strategies, thus advancing the interests of recipient countries, regardless of what the donors' interests might be.

There is a need to ensure that the timeline for receiving the aid for trade allows countries to actually mobilize these resources to either enhance their participation in the negotiations or to prepare their sectors for opening up to the EU. For that purpose, there is a need to ensure that the counterpart institutions are part of the process of planning around disbursement and are ready for making use of the aid allocated.

Monitoring and evaluation of the aid for trade process and outcomes, including social, economic and environmental effects, ought to be undertaken by independent bodies and not led by donor countries or donor-driven bodies. Channels for participation of the populations affected by the programs ought to be available.

### **Final Comments**

25. Please point out any other aspect you think important for EU trade and development policy, mentioning useful links or documentation available.  
(between 2 and 3000 characters)

ANND contribution:

The EU commission stresses that “policy coherence for development is a legal requirement under the Lisbon Treaty and that policies in areas such as trade ...can have a huge impact on the poorest countries' capacity to reduce poverty and grow”<sup>2</sup>. Policy coherence necessitates genuine political commitment, coordination, and dialogue at member state and EU level, as well as with partner countries of the EU. Achieving coherence necessitates establishing cross-sectoral dialogue at the policy making level, and within institutionalized foras and mechanisms that monitor the developmental outcomes of various policies. It also necessitates cross-cutting interventions for effective social and developmental considerations.

Among the major coherence questions posed at the EU policy making process is the effects of economic and trade liberalization, which is core to the economic partnership model that the EU seeks with various developing countries, on the economic and social national policy spaces of those countries and development processes. The indications in the EU Commission’s paper entitled “Trade, Growth, and World Affairs” in regard to the necessity of consultation with civil society as part of EU policy-making and the embedding of impact assessments and evaluations in trade policy making is a positive indication that needs to be set in practice<sup>3</sup>. At implementation level, institutionalized cross sectoral dialogue, monitoring, and assessment mechanisms need to be set in place. Indeed, trade negotiations ought to be built on well developed human rights- based assessments of the potential impacts of the trade liberalization on the developmental dimensions associated with the sector being addressed.

**ABOUT THE ARAB NGO NETWORK FOR DEVELOPMENT (ANND):**

ANND is a regional network working in ten Arab countries with seven national networks and twenty-three NGO members. ANND’s advocacy work focuses on social and economic rights in the Arab region. It works in three main areas: (1) development policies in the region, (2) social and economic reform agendas and the role of international and regional organizations, (3) economic and trade liberalization policies and its social and economic implications. ANND have been following Euro-Mediterranean policies since 1995 and have been active with several partners in Europe and across the EU’s partner countries in the Mediterranean in contributing to public policy consultations conducted by the EU.

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<sup>2</sup> The EU Commission Green Paper [COM(2010) 629 final], p.11.

<sup>3</sup> European Commission; “Trade, Growth, and World Affairs; Trade Policy as a Core Component of the EU’s 2020 Strategy” [COM (2010) 612].