

## **Civil Society Organizations in Morocco and the Arab Countries Voice Concerns of Deep and Comprehensive Free Trade agreement between Morocco and the EU**

Civil society organizations warn of potential negative effects on development, human rights, and the future of productive sectors as a result of the negotiations between Morocco and the European Union (EU) about a deep and comprehensive free trade agreement, and demand full transparency in the negotiations course.

The first round of negotiations between Morocco and the EU about a deep and comprehensive free trade agreement started in Rabat on April 12, 2013. The second round of the negotiations was held in June 2013.

The negotiations will include an expansion of the trade agreement already existing between the EU and Morocco to include, in addition to tariff reduction, regulations on services trade, investment and investor protection, government procurement liberalization, competition policy and intellectual property protection. These negotiations will address areas that are at the heart of the structure of national economic sectors and may directly affect the state's ability and sovereignty in terms of regulating the economy in line with national development goals.

These negotiations will begin without relying on an assessment study of the results of the existing free trade agreement between the EU and Morocco, and without the perception of the potential effects of proposed regulations in the negotiated areas.

Morocco, the Maghreb and the Middle East in general are reviewing options for economic and social development with popular movements calling for fairer developmental forms that would allow for the enactment of an effective industrial policy, stimulate productive sectors, contribute to job creation and combat poverty, vulnerability and inequality. Governments are urged to act on similar lines by reviewing their economic and political relations, as well as laws and trade and investment agreements, in light of their own development plans and international and national obligations.

Civil society organizations want to pinpoint in this message some of the most important problems and risks that they see associated with the negotiations' proposed agenda, and advance a number of democratic demands to the involved government agencies.

### **Negotiations about the Liberalization of Services Trade**

The services sector plays an important role in the Moroccan economy in terms of its contribution to the GDP, job creation and the development of other productive sectors. The sector is characterized by rapid changes in relation to its size and scope, with the constant emergence of new services thanks to technical developments, as well as changes in demand occurring in other sectors. Moreover, many services sectors are closely associated with the economic and social

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rights of citizens, including basic services, such as access to good healthcare services, education, decent housing and other services.

Morocco committed to liberalizing the services sectors in its free trade agreement with the United States (US), exceeding the commitments made in the context of multilateral negotiations in the World Trade Organization (WTO). Therefore, a study should be conducted about the impact of these obligations on the development of the services sector and its role in the creation of decent jobs and contribution to the production and development of the national private sector's role. Morocco faces the challenge of taking the services sector from focusing on low added value activities to accumulating added value, providing decent jobs and contributing to the support of other productive sectors. It is therefore necessary to reach such assessments before entering negotiations that threaten to erode the domestic market for the benefit of foreign companies and multinational corporations.

### **Negotiations on Government Procurement**

The government procurement sector accounts for a significant percentage of the gross national product (GDP), making it a vital sector in terms of galvanizing the national economy and helping national investors and the national private sector expand economic activities. The government procurement sector amounts to 12% of the GDP in Morocco.<sup>1</sup> Morocco did not join the WTO agreement on government procurement. It also tried to reduce the impact of the regulations it agreed upon within the free trade agreement with the US. However, the negotiations with the EU about the liberalization of the government procurement sector in Morocco carry profound implications for the possibility of organizing the government procurement sector in line with supporting the expansion and development of the national private sector's role.

### **Negotiations about the Protection of Foreign Investment**

Foreign investment plays a pivotal role in the policies of economic growth of developing countries, but the relationship is not direct or automatic between foreign investment on one hand and sustainable development and economic growth that generates jobs and contributes to productive capacity-building on the other hand.

Usually, investment protection agreements have been promoted as a tool to attract investment. But it is important to note that there is no direct relationship between international agreements to protect and attract investment. Studies indicate that investors give priority to economic markets with sustainable and stable growth and a labor force with high percentages

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<sup>1</sup> <http://data.albankaldawli.org/indicator/NE.CON.GOV.T.ZS>.

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of skilled, certified and competitive people; that is, markets that are not necessarily committed to international investment agreements.

Also, various international experiences indicate that international investment agreements that focus only on the protection of foreign investment and do not address the investor's responsibility, limit the ability of governments to regulate national economies, have not become a policy instrument that supports sustainability and productivity and contributes to a development that helps create jobs. These agreements also allow countries to resort to international arbitration. The cases include reorganization of social or economic sectors for development reasons. In many cases, international investment arbitration forums considered that any new laws or regulations affecting the investor's profitability amount to a violation by the state in question of its obligations in international investment agreements. These cases have led to states losing huge amounts of money through international verdicts that forced them to pay foreign investors, from public budgets, amounts the investors did not spend locally in the first place.

Morocco has committed to more than 40 international investment agreements, as well as regulations on investor and foreign investment protection in its free trade agreement with the US. It is imperative to review and assess the impact of these obligations on development and production in Morocco and on the state's capacity to organize national economic sectors, before negotiating additional agreements, especially since Morocco lost a number of cases of international arbitration, including two known cases filed against it in the International Center for Settlement of Investment Disputes (ICSID).

### **European Model for Investment Agreements**

Generally, the EU still focuses on a form of investment agreements proposed with the sole aim of providing maximum unconditional protection to European investors and their investments abroad, and to find new markets for European companies, especially in light of the EU's current economic and financial crisis. While the EU promotes deep and comprehensive free trade agreements as tools for economic growth and investment attraction, these agreements carry a significant threat to the democratic process, human rights, public policy and the state's ability to regulate economic sectors for the public interest.

### **For All These Reasons:**

Signatory organizations stress the following demands:

- Halting new negotiations until realizing an assessment on the impact on human rights, development and the state's ability to regulate economic and social sectors, expected from the proposed regulations of the deep and comprehensive free trade agreement,

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and the liberalization agreements already endorsed by Morocco, including the free trade agreement with the US. This should be part of a participatory process between the government and civil society organizations.

- Excluding sectors of basic services related to economic and social rights of citizens of the negotiations, including the sectors related to the right to healthcare, education, social security and water supply.
- Developing a coordination mechanism to ensure the negotiations' transparency and participation of representatives of civil and economic forces in the negotiations' various stages. This should be part of a framework that allows the availability of necessary information about the course of negotiations to allow stakeholders to analyze effects on productive sectors and economic and social rights. Parliament should also keep up with and debate the series of negotiations during meetings that rely on relevant ministerial reports.

### **Appendix:**

#### **Regulations on investor and investment protection proposed by the EU for negotiation with Morocco:**

- A broad concept for the investor and his right for protection; therefore, the agreement is expected to include a wide range of commercial presence forms, including the consideration of intellectual property as an investment covered by the agreement's protection, in addition to providing protections for investors and speculative investments that do not have development added value.
- Investors are given the right of establishment; that is, the right to access and invest in any of the economy's sectors. This will reduce the state's ability to regulate the investment policy and select the presence of foreign investors in national sectors – this is a necessity in any developmental context in developing countries.
- Giving the absolute right of treatment according to the most favored nation principle and guaranteeing reciprocal treatment with national investors.<sup>2</sup> This reduces the state's ability to secure an appropriate environment for the progress and growth of national private sector establishments and national investment promotion; on the contrary, it leads to outflows of investment from local markets.
- Giving investors the right to sue the state in international arbitration forums for huge sums. Morocco lost a number of arbitration cases in ICSID, a World Bank international arbitration forum, and other international arbitration forums. Endorsing more agree-

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<sup>2</sup> National treatment and the most favored nation: reciprocal treatment to national and foreign investors.

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ments increases Morocco's susceptibility for such cases brought by investors in international arbitration forums that lack transparency.

- Providing investors with criteria for absolute protection, such as "fair and equitable treatment" or "full protection and security." Experiences show that these criteria are exploited by the international arbitration forums where loose definitions were given, leading to challenges and criticisms of several interventions by the state to regulate the economic sectors. Arbitration forums considered such interventions a breach of the investor's right, leading to high costs on states and public budgets.
- The EU proposes including in agreements, chapters relating to sustainable development or articles dealing with human rights issues and social responsibilities to respond to concerns by civil society and human rights organizations, Parliament and other stakeholders about the effects of these regulations on the state's role and the space for development policy and human rights preservation. A space for national policy-making to serve the development process and human rights in developing countries involved in these agreements, cannot be provided or guaranteed by just including in agreements such chapters. It is necessary to put human rights and development priorities at the heart of the decision-making process and the negotiations, through tracks of the development and implementation of national policy-making and the verification, review and adjustment of agreements' outputs according to national needs.

### **Signatories to the Message about the Negotiations between Morocco and the EU about a Deep and Comprehensive Free Trade Agreement:**

#### **From Morocco:**

- 1- Espace Associatif
- 2- Assemblée des Citoyens
- 3- Association de Lutte Contre le Sida (ALCS)
- 4- Transparency Maroc, Association Marocaine de Lutte Contre la Corruption
- 5- Association Marocaine des Droits Humains
- 6- Organisation Marocaine des Droits Humains
- 7- Troisième Millénaire Sud-Est
- 8- Femmes du Sud
- 9- Coalition Marocaine pour l'Éducation pour Tous
- 10- Association Tanukra pour la Culture et le Développement à Nador
- 11- Association Union de l'Action Féminine (UAF) – Rabat
- 12- Association Jossour de l'Environnement et de Développement
- 13- Association Nejma pour l'Enfance et la Jeunesse
- 14- Association Soutien de la Femme et l'Enfant – C.R. MACHRAA HAMADI

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- 15- Association INSAT – Béni-Mellal
- 16- Association Bades Al Hoceima
- 17- Association Jousour pour le Développement et la Coopération Nord-Sud
- 18- Association Anjra pour le Développement et la Conservation du Patrimoine de Tanger
- 19- Réseau de l'Action Civile – Tétouane
- 20- Association Zitouna Ksar El Kebir
- 21- Association Marocaine des Élues des Collectivités Locales – Midelt
- 22- L.F.D.D.F – Béni-Mellal
- 23- Association Jossour Forum des Femmes Marocaines – Rabat
- 24- Association Karama-Monde Rural – Meknès
- 25- Association Initiatives pour la Protection des Droits de la Femme (IPDF) – Fès
- 26- Association de Coopération pour le Développement et la Culture (ACODEC) – Nador
- 27- Association de Soutien des Personnes Handicapées
- 28- Réseaux des Personnes en Situation d'Handicape Sud-Est
- 29- Association de Solidarité pour la Culture et le Développement
- 30- Le Réseau Marocain pour le Droit à la Santé (RMDS) – Rabat
- 31- Peoples Health Movement – section Maroc, Rabat
- 32- Chantiers Jeunesse Maroc (CJM) – Bejaad
- 33- Association Wafaa El Hirafiyine – Bejaad
- 34- Association Marocaine de Lutte Contre la Violence à l'Égard des Femmes (AMVEF)
- 35- Association Marocaine de Prévention Bucco-Dentaire
- 36- Association Ait Tissilit de Développement – Béni-Mellal
- 37- Association Écologie – Kenitra
- 38- UAF – Agadir
- 39- Association Ait Tissilit du Développement – Béni-Mellal
- 40- Association Fhamni Larache

### **From Other Arab Countries:**

#### **Egypt:**

- 1- The Popular Campaign to Drop Egypt's Debt – Egypt
- 2- The Egyptian Center for Economic and Social Rights – Egypt
- 3- Habitat International Coalition – a network of land and housing rights – Egypt
- 4- The Cairo Institute for Human Rights Studies – Egypt
- 5- The Egyptian Initiative for Personal Rights – Egypt
- 6- The Egyptian Association for Collective Rights – Egypt
- 7- The New Woman Foundation – Egypt

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- 8- Cooperation Movement – Egypt (movement to encourage work through cooperatives) – Egypt
- 9- Al-Shehab Foundation for Comprehensive Development – Egypt
- 10- The Egyptian Association for Community Participation Enhancement – Egypt

### **Jordan:**

- 11- The Jordanian Women's Union – Jordan
- 12- The Phoenix Center for Economic Studies – Jordan
- 13- The Bar Association Human Rights Defenders – Jordan
- 14- The Cooperative Association of the Children of Dana and Al-Qadisiyah – Dana, Al-Tafeileh – Jordan

### **Tunisia:**

- 15- Tunisian Forum for Economic and Social Rights – Tunisia

### **Iraq:**

- 16- Iraqi Al-Amal Association – Iraq

### **Bahrain:**

- 17- Bahrain Transparency Society – Bahrain

### **Yemen:**

- 18- Information and Training Center for Human Rights – Yemen

### **Lebanon:**

- 19- The Coordinating Association for Palestinian NGOs in Lebanon – Lebanon
- 20- NGOs Gathering in Sidon – Lebanon

### **Regional Frameworks:**

- 21- The Arab NGOs Network for Development

### **International signatories:**

- 22- AITEC