

# EAST AFRICAN CIVIL SOCIETY ORGANIZATIONS' FORUM

*Strengthening Civil Society in the Integration Process*

*September - December 2015 Newsletter Digest*



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EACSOFF Vision for East Africa is "A community in which citizens are fully engaged in all affairs affecting their lives".

## FOREWORD FROM THE SECRETARIAT



Ms. Martha Makenge

Dear Colleagues and Partners,

I am very happy to introduce and welcome you to yet another edition of the East African Civil Society Organizations' Forum (EACSOE) E-newsletter. In this newsletter, we bring you news about various developments during the period of September to December 2015 that took place in EACSOE, its members, the EAC and beyond. We also reflect on various Civil Society Organisation initiatives, including important meetings, workshops and conferences as highlighted below:

- Right to a Nationality in Africa
- The Civil Society Guide to Regional Economic Communities
- Petition of the Citizens of East African Community on the deteriorating human rights and humanitarian situation in the Republic of Burundi
- Update on EACSOE Strategic Plan 2016-2019
- Moving Africa Forward: Towards a People-Centered Model Mining Legislation for Africa Conference
- EATUC Regional Stakeholders' Consultative Meeting to Discuss the Proposed Charter on Good Governance in the Extractive Industry in the EAC
- Zinduka Festival 2015 pushes EAC Integration into Full Gear
- Open Letter from Civil Society on the Nairobi Ministerial of the World Trade Organization (WTO)
- Event Updates: 4th Annual EAC Secretary Generals' Forum 2015 **postponed to 5th February 2016**

I wish you all happy reading and a prosperous 2016.

Ms. Martha J. Makenge  
EACSOE Co-ordinator.

## Right to a Nationality (R2N) in Africa



*Delegates at the R2N Meeting*

### Background

In 2009 AfriMAP, now AfRO, published two ground breaking studies<sup>1</sup> focusing on issues of exclusion and citizenship in Africa. Those reports stated that Africa's wars are fuelled by many factors, most notoriously, natural resources and land. However, citizenship also ranks atop the contributors to conflict on the African continent. The rampant and unresolved issue of discrimination of citizenship has led to conflict in Côte d'Ivoire and Democratic Republic of Congo. The studies made an urgent case for the right to a nationality to be included in Africa's laws. The studies also argued the case that citizenship discrimination in Africa has reached a crises point. Millions of Africans without citizenship are deprived of the right to vote, to access public services, possibility to leave or return to their countries of origin since they do not have travel documents, or even transfer their nationality to their spouses or children, and right to register their child at birth or enrol them in school.

It is in this regard the East African Civil Society Organisations Forum (EACSOFF), Pan African Lawyers Union (PALU) in partnership with Open Society Foundation Africa regional office (AfRO) and International Refugee Rights organized a meeting under the theme "The Right to A Nationality" on the 26th of November 2015 at the East Africa Hotel, Arusha Tanzania.

The meeting was organised as a forum on the challenges to the Right to a Nationality in Africa, Statelessness in Africa, and proposing the urgent need for a protocol on citizenship in Africa. Currently the majority of African Union member states citizenship laws are inadequate and subjected to pervasive discrimination, because they do not guarantee the right to a nationality for hundreds of millions of Africans - most of whom are women and children. A full day was dedicated to discussions focusing on citizenship issues, gender, and freedom of movement, refugees, internally displaced persons, regional integration and institutional intervention. The EAC gender protocol, was assessed in terms of contradictions on the right to a nationality for women and children in the region.

<sup>1</sup>Citizenship Law in Africa: A comparative study and Struggles for Citizenship in Africa, Bronwen Manby, AfriMAP, 2009

## Right to a Nationality (R2N) in Africa

The meeting accorded CSOs the opportunity to share information on the recent findings and recommendations of the continental study, as well as reflect on the effort to advocate/Campaign for the protocol on the rights to a nationality in Africa. Additionally, due focus was paid on the concept of accelerated regional integration agenda, which is hampered by policies of exclusion at the regional level.

### Conclusion and Way Forward

The objective of the meeting was to raise awareness on Right to Nationality with the Civil Society Organisations working in the East Africa Region. The main question was how the Civil Society could work with relevant partners to ensure that they can minimize the cost of statelessness and come up with new rules and policies on the issue.

The Civil Society Organisations in the East Africa region need to support the African Commission in the development and eventually the implementation of the draft protocol. It was urged that the CSOs should take advantage of the year of Human Rights, 2016 to push for the Right to Nationality agenda and share their technical expertise and advocate for political goodwill.

### Stakeholders may advance the agenda in the following ways:

1. Having direct contact with the state. The Civil Society should start lobbying for the “observance” of the Right to Nationality. People at national level should be aware of what is in the draft protocol;
2. Reaching out to the East African Community as a group. If Partners work together they could reach the EAC community in a more efficient and effective way as group effort and momentum could be very helpful.
3. EAC should convene a specialised technical committee meeting to discuss the issue of Right to Nationality. The specialised technical committee including invited Civil Society Organisations could influence the results of the meeting on the sidelines. If this is done the remaining part is adoption by the executive committee;
4. Joint collaboration between the East Africa Community and the Civil Society;
5. Sharing of good practices to convince states. Civil Society to use the good standards in their region to push for the Right to Nationality;
6. Need to show solidarity among all the five regions in Africa. Emphasis on the need to work together and speak in one voice.

**Read Report on the Right to a Nationality (R2N) in Africa Meeting** that highlights presentations on **Support to Right to Nationality by African Union Commission** Presented By: Olabisi Dare, AU Political Affairs Division; **UNCHR Strategy and Interventions on Statelessness in Eastern Africa** Presented by Mrs. June Munala: Senior Regional Protection Officer Statelessness, UNCHR ; **Right to Nationality and the EAC integration Project** Presented By: Stephen Niyonzima, Principal, Labour and Employment Officer, EAC; **Brief Presentation on Case Studies of Statelessness in Africa** Presented by Donald Deya, CEO, PALU; **Gender and a Right to Nationality in EAC- Streamlining the EAC Protocol on Gender Equality and Development Bill, 2015** Presented By: Elizabeth Ampairwe, Project Coordinator, Women and Economic Empowerment, East African Sub-Regional Support Initiative for the Advancement of Women (EASSI) ; **Burundi: Fleeing in Fear** Presented by Dismas Nkunda, Executive Director, Atrocities Watch Africa **The Game Changer - Right to Nationality: A Win for Refugees** Presented by Olivia Bueno, Director, International Refugees Rights Initiative.

# The Civil Society Guide to Regional Economic Communities

A CSOs guide on the functions of Regional Economic Communities (RECs) was also launched immediately after “The Right to A Nationality” Meeting on the evening of 26th of November 2015 at the East Africa Hotel, Arusha Tanzania.

## About CSOs guide on the functions of Regional Economic Communities (RECs)

“Revitalized regional integration offers the most credible strategy for tackling Africa’s development challenges because of the many weaknesses that overwhelm the limited capacities and resources of individual countries. Collective efforts with dynamic political commitment to integration can help to overcome the daunting challenges.” – United Nations Economic Commission for Africa (2004), Assessing Regional Integration in Africa (ARIA I)

As regional integration gains momentum, there is growing interest among civil society and citizens to participate in the processes and programmes of regional economic communities (RECs). The constitutive treaties of RECs provide for citizens’ participation, but the accessibility of REC treaties and protocols remains a challenge. Decision-making remains state-centric despite growing citizen and civil society interest in regional integration.

The Civil Society Guide to Regional Economic Communities aims to assist citizens and civil society with engaging the policies and programmes of three RECs in Africa:

- The East African Community (EAC);
- The Economic Community of West African States (ECOWAS); and
- The Southern African Development Community (SADC).

## The following are discussed for each REC:

- History and legal framework;
- Organs and institutions;
- The decision-making process;
- Budgeting and finances;
- Relationship with the African Union;
- Engagement with civil society; and
- Current debates within each REC.

The Civil Society Guide to Regional Economic Communities also contains a sampling of the experiences of non-governmental organisations that have interacted with these RECs. **Read CSOs guide on the functions of Regional Economic Communities (RECs)**



*Pictorial Cross section - The Launch of the Civil Society Guide to Regional Economic Communities*

## **Petition of the Citizens of East African Community on the deteriorating human rights and humanitarian situation in the Republic of Burundi**

**To: The Right Honourable the Speaker and Members of the East African Legislative Assembly (EALA)**

The Petition of citizens of the East African Community draws the attention of the House to the deteriorating human rights and humanitarian situation in the Republic of Burundi, and seeks of this Honourable House a number of specific actions:

### **The Background**

There has been a political, human rights and humanitarian crisis unfolding in the Republic of Burundi, from as early as February 2015. The political crisis emanates from the support, on the one hand, and opposition on the other hand, by sections of the Burundi population, for the candidacy, for a third term, of President Pierre Nkurunziza. The human rights crisis emanates from the attempt by several Burundian citizens to demonstrate in opposition to the candidacy; the response of the Police, security officials and members of the Imbonerakure, the youth wing of the CNDD-FDD political party, by violently cracking down on demonstrators and protestors; and the counter response by a section of the population taking up arms and confronting the Police, security officials and members of the said Imbonerakure. The humanitarian catastrophe is occasioned by thousands of Burundi citizens and other residents being internally displaced within Burundi, or seeking refuge in neighbouring countries, thus triggering one of the largest refugee situations that the East African/ Great Lakes region has encountered in the last decade.

The political, human rights and humanitarian crisis

Assassinations, extrajudicial and arbitrary killings: There have been numerous reports of cases of assassinations, extra judicial and arbitrary killings with reports of more than 130 people having been killed in the Capital Bujumbura and in other parts of the Country. Recent reports by the media and by Non-Governmental Organizations (NGOs) indicate that decapitated bodies are regularly picked up off the streets of Bujumbura, with macabre scenes of butchering and ripping out of organs. There is concern that the killing trends are ethnic in origin.

Although the Government of Burundi has ordered investigations into the killings, no single case has been concluded, including the assassination of the Former Head of the Intelligence services, General Adolphe Nshimirimana, which occurred in August 2015. More recently, the arbitrary killing of the son of the eminent and award-winning Human Rights Defender Pierre Claver Mbonimpa, who is himself under recovery after being shot, for which no investigation has been done, despite statements by the Government of Burundi condemning the killings.

In addition, the Office of the United Nations High Commissioner for Human Rights (OHCHR) has expressed alarm at the growing number of arrests, detention and assassination attempts of human rights defenders, journalists and military officials. Media houses have been shut down and there are reports of hate speech and incitement to violence, fuelling speculation of the beginning of a genocide in Burundi. The United Nations High Commissioner for Refugees (UNHCR) reports that over 197,000 Burundians have fled the country since April 2015, after having been harassed, having witnessed enforced disappearances and murders by the Imbonerakure, the youth wing of the ruling party, CNDD-FDD.

## **Petition of the Citizens of East African Community on the deteriorating human rights and humanitarian situation in the Republic of Burundi**

There is great concern that the situation in Burundi is quickly descending into a situation of mass atrocities and grave violations of human rights. The African Union has repeatedly reinforced the need for African responses to African situations and the urgent need for the prevention of mass atrocities, after the deplorable genocide in Rwanda in 1994.

Measures taken to date by various Organs and Institutions of the East African Community (EAC) The Summit has convened three (3) Extraordinary Summits on Burundi, on the following dates:

- 13th May 2015
- 31st May 2015
- 6th July 2015

The 6th July 2015 Extraordinary Summit appointed H.E. President Yoweri Museveni to mediate in the Burundi crisis. This mediation has since then stalled.

The citizens, including some of the Petitioners herein, filed a case before the East African Court of Justice, in Reference No. 2 of 2015: East African Civil Society Organizations' Forum (EACSOF) vs. The Attorney General of Burundi and 2 Others. The case is limited to requesting the Court to ascertain whether the current President of Burundi, Pierre Nkurunziza can lawfully run for a third term in light of the relevant provisions of the Arusha Peace and Reconciliation Agreement for Burundi (Arusha Accord) of 2000 and the Burundi Constitution of 2005. It does not address the ensuing political, human rights and humanitarian crisis.

While the East African Legislative Assembly (EALA) participated in the joint East African Community (EAC) Observation Mission to the Burundi Elections, it has not otherwise deployed its mandate and powers, under the Treaty for the Establishment of the East African Community, to the deepening political, human rights and humanitarian crisis in Burundi.

### **Your petitioners therefore request the House to: -**

1. Openly condemn the: -
  - a. Assassinations, extrajudicial and arbitrary killings
  - b. Use of inciting and incendiary language
  - c. Inordinate use of force by the Police, security officials and members of the Imbonerakure
2. The House, or a Committee within it, to hold a public Hearing in Arusha, Tanzania that would welcome Burundian and East African citizens to testify to the occurrences in Burundi, and make proposals for resolution of the crises.
3. The House, or a Committee within it, to undertake an urgent Fact-finding Mission into Burundi.
4. The House to make a strong recommendation to the Summit that the Republic of Burundi cannot and will not assume the rotating Chairmanship of the Summit of the East African Community, until resolution of the political, human rights and humanitarian crisis in Burundi.

## **Petition of the Citizens of East African Community on the deteriorating human rights and humanitarian situation in the Republic of Burundi**

5. The House to request the African Union (AU) for robust leadership in intervention and mediation in the political, human rights and humanitarian crisis in Burundi, especially because the AU has a more comprehensive and far-reaching legal and institutional framework for intervention than the EAC currently has, including: -
  - a. The Constitutive Act of the African Union, 2000
  - b. The Protocol relating to the establishment of the Peace and Security Council of the African Union, 2002
  - c. The African Charter on Human and Peoples' Rights, 1981
  - d. The African Charter on Democracy, Elections and Governance, 2007
6. In particular, therefore, the House to call upon the Chairperson of the Assembly of Heads of State and Government of the AU to take concrete steps towards preventing Burundi from descending into Genocide or mass atrocities, including: -
  - a. Activating the sanctions regime of the African Union (AU)
  - b. Enhancing the numbers and capacity of the Human Rights Monitors and Military Monitors deployed to Burundi
7. Should the above measures not bear fruit within the next one (1) month, the House to call for suspension of the Burundi Government from both the EAC and the AU.

### **EACSOFF Strategic Plan Update**

EACSOFF has conducted national strategic reflections meeting in Kenya, Uganda, Rwanda and Tanzania. Participants considered and took stock of the issues that affect the East African region and developed strategic responses that will guide the operations of EACSOFF in the next 3 years. Through the coordination of a neutral facilitator(s) participants discussed in a participatory, inclusive, frank and constructive engagement, open but cognizant of sensitivities and multi-cultural contexts. The output of the National Strategy Reflection meeting are reports highlighting issues that affect the East African region, recommendations on EACSOFF's role, structure, priorities and strategies, In this regard EACSOFF has engaged a neutral facilitator to compile the reports and come up with a Regional EACSOFF's strategic plan for 2016 – 2019. The Draft Strategic Plan will be shared in January 2016 for comments and suggestions by members.

## **Moving Africa Forward: Towards a People-Centered Model Mining Legislation for Africa Conference**

The International Alliance on Natural Resources in Africa (IANRA) is a network of 41 member organisations – 40 in Africa and 1 in Europe, including 14 national IANRA groupings or networks in Africa (at various stages of development) with community partnerships and international linkages. Each national grouping has up to 30 member organisations, totaling more than 200 participating civil society organisations (community-based organisations, non-governmental organisations, faith-based organisations, and social movements). IANRA works toward more just and sustainable management of natural resources in Africa through collaboration among member organisations, provision of community support, development of research and conducting advocacy.

Since 2010 IANRA members and partners have had discussions about potential initiatives at sub-regional and Pan-African levels to develop and advocate for mineral resource legislation and related policies that would protect and promote human rights, while also working toward inclusive development and policymaking around mining governance frameworks. This was informed by various initiatives of IANRA from strategy meetings to community exchanges such as the Road to Remedy Project which saw mining community representatives visiting others across the sub-regions from Johannesburg to Mombasa via Malawi and Zimbabwe. The idea was kept alive through every Annual General Meeting since then until the project started in 2013. The project has included case studies on human rights impacts of extractive industries as per the African Charter and Human and Peoples' Rights (African Charter), and a Legal & Policy analysis – focused on regional instruments and national level legislation in 5 countries in Africa: Angola, DRC, Kenya, South Africa and Zimbabwe.

The findings of the case studies was published in a synthesis report highlighting key findings, similarities and differences among the 5 countries. A document that IANRA has named the "First Principles," ie, First Principles towards People Centred Mining Legislation and Policies that would provide for Sustainable Extraction and Equitable Use of Natural Resources for Local, National and Regional Development of Africa has been developed to articulate the impacts and consequences of the mode of mineral resource extraction that dominates wealth accumulation in many African countries. The document also highlights the aspirations of communities to define their own development paths with due regard to their land and culture through enshrining the first principles of consent, respect, dignity and self-determination. And finally, it also serves as a basis to guide elements of land and minerals legislation to result in a developing rural economy where various development alternatives are explored in the interests of people and future generations.

One of the most comprehensive analyses of international and national legislation and policies related to extractive industries and human rights was released as well as a policy advocacy guide for use by communities, civil society, policymakers and other stakeholders. This analysis and the Case Study Synthesis Report form the basis for the call for a model mining law for Africa. Some laws were found to be archaic, developed during the colonial era and thereby ensuring that people do not benefit from the natural resources of their land. Others conflicted with other acts and policies which override basic human rights and freedoms. It is against this background that IANRA saw it fit to draft a model law informed by these findings and various IANRA reports from communities across its membership in 14 African countries.

## **Moving Africa Forward: Towards a People-Centered Model Mining Legislation for Africa Conference**

Building on above outcomes IANRA held a 2-day Conference to be held in Johannesburg from 11-12 November 2015 to share and further develop the above mentioned documents in a multi-stakeholder setting and to discuss a collective way forward for advocating for the recommend policy changes and the model law. The Conference was organised around presentations by IANRA on the major outputs of the project as well as by other organisations who are working on related initiatives. Working groups were created to engage and give necessary input and comments to the First Principles and the Draft Model Mining Legislation.

### **The Key Outputs of the conference were:**

- Presentation of the case study and legal & policy analysis findings;
- Presentation of the first draft of the model legislation;
- Stakeholder gave input and feedback on the case study findings, policy analysis, First Principles document and the draft model legislation;
- Knowledge sharing and ideas for how various stakeholders might be involved in the advocacy for adoption of the model law/policies.

**Read First Principles towards People Centred Mining Legislation**  
**Read Draft Model Law**

Share your suggestions and comments on the model mining law via email at: [akmayher@gmail.com](mailto:akmayher@gmail.com)

## **EATUC Regional Stakeholders' Consultative Meeting to Discuss the Proposed Charter on Good Governance in the Extractive Industry in**

### **Introduction**

East African Trade Union Confederation(EATUC) with support from Friedrich Ebert Stiftung-Tanzania organized two day consultative meeting with other sub-regional partner organizations took place from 12th - 13th October 2015, at Kibo Palace Hotel, Arusha, Tanzania, to discuss the Draft Tripartite Charter on Good Governance in the Extractive Industry in the EAC Region- The meeting was attended by eleven participants from various regional organizations including East African Employers Organization(EAEO), East African Business Council(EABC), East African Civil Society Organizations' Forum (EACSO), East African Law Society(EALS), East Africa Local Government Association(EALGA) and representative from FES-Tanzania.

### **Background**

Over the last few years EATUC with support from FES-Tanzania office, have held tripartite expertise meetings on the issue of enhancing good governance and democracy in the extractive industry within the EAC region. One important recommendation that arose during these important meetings was the need to develop a tripartite charter on good governance in the extractive industry in the EAC.

EATUC with support from Friedrich Ebert Stiftung-Tanzania office have developed a Social Partners' Charter on Good Governance in the Extractive Industries within the East African Community. This charter is intended to initiate a discourse with the East African Community organs, national governments, employers' organizations, sub-regional partner organizations to ensure that we promote good governance and democracy in the extractive industry in EAC region.

## **EATUC Regional Stakeholders' Consultative Meeting to Discuss the**

### **Workshop Discussions**

The workshop addressed a number of issues including the review of the charter on good governance in the extractive industries in EAC (Comments and inputs to the Tri-partite Charter on good governance in the extractive industry in EAC) and challenges faced by stakeholders in engaging with EAC on Key issues.

### **Way forward**

It was suggested that more consultation should be undertaken with stakeholders at all levels both national and regional ; EATUC should identify champions for the charter at all levels including EALA and national institutions. Specific national forums should be organised to promote the agenda. Some stakeholders who should be considered include; MEACA, Partner ministries responsible for labour and employment, mineral resources, employers organisations, workers organisations and civil society; There is need to consider developing a robust sensitization campaign targeting the citizens of Partner States, media, workers, and employers.

**Read Proposed Charter on Good Governance in the Extractive Industry in the EAC and Share your suggestions via Email to: [info@eatuc.org](mailto:info@eatuc.org)**

## **Africa Mining Vision (AMV) Looking Beyond the Vision: An AMV Compact with Private Sector Leaders**

The African Mining Vision has been instrument in calling for a paradigm shift which now requires Governments to put in place mechanisms for better management of the finite/non-renewable mineral. Further, Mining companies are increasingly being measured against good economic, environmental and corporate social performance, the triple bottom line approach. Indeed, the quest for 'sustainability' has led demands for fairness from African countries' stakeholders. Recognizing that the extractives sector is characterized by complex relationships and competing demands, rights, and claims from governments, local communities, civil society on one hand and private companies on the other, it has become essential to build a consensus on what constitutes 'shared value' and 'shared benefits' and how to secure a social license to operate in the 21st century.

African governments have become more assertive in developing long term visions for mineral resources; to increase local content; move up the value chain; and increase inter-sectoral linkages between minerals and non-mineral sectors. This emerging narrative of a 'rising' Africa is underscored by the adoption of several initiatives such as the African Union's Agenda 2063; the Common African Position (CAP) on the post 2015 Development Agenda; and the Africa Mining Vision (AMV) . The AMV emphasizes the transformative role that the mining sector plays in the delivery of development in Africa.

To ensure successful implementation of the AMV, an explicit agreement between AU member States and private sector leaders in the extractive industries is necessary. This agreement which the African Union is developing through the AMDC, will be in the form of an AMV Compact between AU member States and private sector leaders in Africa. The AMV Compact is drawing on a set of standards that would serve as a benchmark for companies and governments to assess performance, resulting in robust policies that cover a range of principles.

It is against this backdrop and in recognition of the important roles and contributions by different stakeholders in Africa and beyond that we are now pleased to share with you the draft AMV Compact details for your comments and inputs. Please go to this link and input your comments: <https://goo.gl/kuUapo> . The document will be open for comments until 31 December 2015. Please feel free to share the doc further with and within your networks. [https://docs.google.com/document/d/13fHilwMNNQK\\_dUAoIA52BYWrwR78pua9\\_OM6si4T8iM/edit](https://docs.google.com/document/d/13fHilwMNNQK_dUAoIA52BYWrwR78pua9_OM6si4T8iM/edit)

## Zinduka Festival 2015 pushes EAC Integration into Full Gear



Mr. Liberat Mfumukeko, EAC Deputy Secretary in charge of Administration and Finance (centre) in a group photo with delegates from the five Partner State

The 2015 Zinduka Festival realises the dream of a greater, better and more prosperous East Africa. In celebration of East-Africaness, the East African Community (EAC) Deputy Secretary-General in charge of Finance and Administration, Mr Liberat Mfumukeko, on behalf of the Secretary-General, Amb. Dr Richard Sezibera, graced the official opening of the third Zinduka Festival held at Sheikh Amri Abeid Memorial Stadium in Arusha, Tanzania.

Meaning “re-awakening consciousness” in Kiswahili, Zinduka brings together participants from the fields of academia, social movements, civil society organisations, media, the business community, the EAC Secretariat and East African government bodies to engage in discussions regarding East African integration, to find collaborative measures to strengthen advocacy on EAC integration for sustainable development and to celebrate the region’s rich diversity.

Reiterating on the importance of integration, which is also the theme of this year’s Zinduka Festival, Mr Mfumukeko stressed on the need for more citizenry participation, adding that, “this is the only way that our collective dream can be realised. Popular ownership is the foundation for a secure and sustainable East African Community”.

The Zinduka Festival comes in time of EAC Day marked for November 30, 2015. With 15 years of integration already under her belt, the Community was in the forefront of the Customs Union in 2005, the Common Market in 2010, the signing of the Monetary Union Protocol in 2013, as well as continuous efforts in fast-tracking the process towards an East African Political Federation. In addition to this, in 2011, the EAC designed a Forum for the involvement of Civil Society and the Private Sector in the integration process.

“With women constituting over 60 percent of the EAC population, their role in boosting social and economic development of the Community and trade across the region cannot be overemphasised”, said Mr Mfumukeko. “Youth is another group that cannot be ignored. Many of our young people have brilliant and innovative ideas, and if we all should work together with them to create an environment where this potential can be fully tapped to drive growth and development”, he said.

The Zinduka Festival originated from the need for a people owned process envisaged in Article 127(3) and (4) of the EAC Treaty. Zinduka is a catalyst that compliments other ongoing as well as future efforts by state and non-state actors to build a sustainable EAC through active citizenry participation.

For more information please contact: Mr. Owora Richard Othieno, Head of Department, Corporate Communications and Public Affairs, Email: [OOthieno@eachq.org](mailto:OOthieno@eachq.org)

## **Open Letter from Civil Society on the Nairobi Ministerial of the World Trade Organization (WTO)**

As members of civil society organizations including trade unions, environmentalists, farmers, development advocates, and public interest groups from over 150 countries, we are writing today to express extreme alarm about the current situation of the negotiations in the WTO. We urge you to take seriously the need for the upcoming Nairobi Ministerial to change existing WTO rules to make the global trading system more compatible with people-centered development, and to forestall efforts by some developed countries to abandon the development agenda and replace it with a set of so-called “new issues” that actually non-trade issues that would incur deeply into domestic economies and constrain national policy space required for development and public interest.

Governments from around the world recently endorsed the Sustainable Development Goals (SDGs) negotiated through the United Nations. These include key goals such as reducing poverty and inequality; eradicating hunger; and ensuring universal access to essential services such as health care, education, water, and energy. In order to achieve these goals, countries must have the policy space to invest in domestic agricultural production to achieve food security and food sovereignty; to regulate the financial sector to ensure financial stability; to scale up public provision of essential services to guarantee education, health, water, and energy access; to harness the power of government procurement to promote small and medium enterprises (SMEs); to utilize tax revenues, including tariffs, strategically to foment sustainable development and the creation of jobs with decent work; and to ensure that foreign investment serves the interests of the national development plan. However, this policy space is currently constrained by existing WTO rules which the vast majority of WTO members, which are developing countries, have been demanding must be changed, and are further threatened by an effort by a tiny number of developed countries to replace the development mandates with “new issues” designed to further increase transnational corporate profit margins.

As civil society organizations, we have witnessed firsthand in our communities the negative impacts of 20 years of some existing WTO policies which have largely favored the interests of the developed world over the development interests of the developing world. This has particularly led to rising inequalities both within and among countries; the contributions of increased trade to climate change; the financial deregulation that led to the 2008 global economic crisis and the ongoing crises of food insecurity and joblessness, to name a few. Many of our organizations have called repeatedly for the WTO to be replaced with an institution that regulates corporate trade for the benefit of workers, farmers, communities, and the environment, rather than disciplining states for the narrow goal of increasing trade. At the same time, we must ensure that the WTO's model of restricting national policy space in favor of corporate trading rights must not be expanded, but rather pruned back. That is why it is so urgent at this time to ensure that the Nairobi Ministerial deliver on removing WTO obstacles to development by fulfilling the development mandate in terms of strengthening and making effective the Special and Differential Treatment (SDT) for all developing countries, and affirming developing countries' rights to food security, while forestalling the corporate agenda of abandoning development in favor of a corporate wish list of “new issues.”

Success in Nairobi: Fulfilling the Development Mandate by Strengthening SDT for All Developing Countries, Removing WTO Obstacles to Food Security, and Operationalizing Benefits for the Least Developed Countries (LDCs)

This year, a group of 90 (G90) developing countries made concrete proposals for changes to existing WTO rules that would remove some WTO constraints on national pro-development policies. Many of these proposals parallel the civil society demands encompassed in the Turnaround Statement endorsed by

## **Open Letter from Civil Society on the Nairobi Ministerial of the World Trade Organization (WTO)**

hundreds of civil society groups from around the world. Reports from Geneva indicate that a tiny number of high-income WTO members are attempting to decide for themselves which developing countries should be able to utilize these flexibilities, dividing developing countries according to non-existent, subjective criteria and attempting to treat so-called “emerging markets” as if they were already developed. This approach has no basis in WTO law, in development policy, nor in economic reality. In fact, 70 percent of the world’s poor live in so-called “middle income” countries; narrowing the scope of the G90’s special and differential treatment proposals would condemn a billion people to living under WTO rules inappropriate for their level of development, without the flexibilities and policy space requisite for their countries to achieve the multilateral SDGs. For those reasons, SDT should be strengthened and made operational for all developing countries, while providing additional flexibilities to LDCs that attend to their specific development, financial and economic needs. The WTO Ministerial will be a failure for development if the full package of G90 proposals for all developing countries is not agreed to in Nairobi.

Even worse, just one WTO member – the United States – appears to be not only refusing to agree to the full G90 package, but also working to ensure that the development mandate in the WTO is permanently abandoned. While a lack of agreement on the G90 package of proposals by Nairobi would indicate a failure of the Ministerial from a development perspective, the abandonment of the entire development mandate would lock out the potential to fulfill this mandate in the future, thus locking the world into the existing inequalities and imbalances forever – at the behest of one member of the WTO, an institution that claims to operate by consensus.

Likewise, many of those same impoverished people in developing countries and LDCs alike continue to suffer from food insecurity. Since the Bali Ministerial in December 2013, developing countries and anti-hunger advocates and farmers around the world (including in the United States) have worked to ensure that developing countries would be unshackled from WTO rules which severely constrain their ability to invest in public stockholding programs, even though such investments are explicitly called for in the SDGs in order to reduce rural and urban hunger. WTO members agreed to find a permanent solution to the issue of public stockholding for food security by December 31, 2015. The G33 group of 45 developing countries has made a workable proposal to remove limits on developing countries’ investing in their own food security by categorizing public stockholding for food security in the so-called “Green Box,” and this must be adopted by the Nairobi Ministerial. The WTO Ministerial will be a failure from a development perspective if this simple step towards food sovereignty is not agreed to in Nairobi.

In one of the most hypocritical positions in the history of global trade negotiations, some developed countries are not only opposing the right of poor countries to feed themselves, but also refusing to reduce domestic supports on exported agricultural production that damages other countries’ domestic markets. In fact, the promise to reform global agricultural trade was the primary reason that developing countries even agreed to launch the Doha Round. Fourteen years later, some developed countries continue to subsidize agricultural exporting corporations in ways that damage farmers in developing countries, whose governments are not allowed (or cannot afford) such subsidies. We support the concept of food sovereignty, in which countries should be allowed to undertake domestic supports of agricultural production, but no country should be allowed to export subsidized food in a way that damages other countries’ markets. The WTO Ministerial will be a failure from a development perspective if the disciplining of domestic supports that damage other countries’ markets is not agreed to in Nairobi.

At the same time, the havoc wreaked on developing country agricultural markets due to dumping of subsidized products calls out for an immediate solution. The G33’s proposal to create a Special Safeguard

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Mechanism (SSM) that would allow developing countries to protect their food security, farmers' livelihoods, and rural development, would be another important step towards restoring countries' food sovereignty that has been so eroded by the current imbalances in the WTO rules. The WTO Ministerial will be a failure from a development perspective if a workable, practical SSM along the lines of the G33 proposal is not agreed to in Nairobi.

Even in the area that all WTO members should be able to agree on – ensuring benefits for the LDCs – consensus has not yet been reached. Although it was a priority mandate for the post-Bali period, the small LDC package agreed in Bali has yet to be operationalized, including ensuring 100 Duty Free, Quota Free (DFQF) market access for LDCs exports; providing actual binding commitments for the LDC services waiver, and full simplification of the Rules of Origin (RoO). In addition, cotton farmers in Africa have been damaged for years due to the subsidies that rich countries have agreed to discipline in an “expedited” manner. The WTO Ministerial will be a failure from a development perspective if the disciplining of subsidies in cotton is not agreed to in Nairobi, along with the operationalizing of all aspects of the full LDC package.

### **Introducing a Corporate Wish List of “New Issues” Must be Off the Table at Nairobi**

We can all agree that global trade has evolved significantly since the Doha Round was launched in 2001. Unfortunately, many workers and farmers are still laboring under the rules negotiated in the mid-1990s – to which many developing countries and civil society around the world objected at the founding of the WTO. It is vastly inappropriate to mandate negotiations on new issues to the benefit of the financial, technology, and logistics corporations a few WTO members without first addressing the inequities and imbalances in the current WTO rules.

Many of these issues have been explicitly rejected by the WTO membership in the recent past, particularly the so-called “Singapore issues,” including investment, competition policy, and transparency in government procurement. Civil society has long opposed the international investment agreements (IIAs) which privilege foreign investors over citizens, communities, the environment, and the public interest generally, whether they appear in bilateral, plurilateral, or multilateral forums. Multiple governments have taken heed of the explosion of cases brought by investors against sovereign governments, and are re-shaping national investment rules to ensure that they benefit the national interest. During this time of shifting public debate on the negative impacts of such agreements, it is outrageous to think of allowing this ejected topic back into the WTO. Similarly with the topics of competition policy and opening up government procurement to foreign corporations, which are advantageous predominantly to corporate interests. Government procurement is an important engine for local development and for addressing inequities within countries, and these goals should take precedence over opening markets for transnational bidders. These are not primarily trade issues and they must not be allowed on the agenda – and there is not even any legal basis in the WTO to bring them in until after the development demands of developing countries have been comprehensively addressed.

Likewise there appears to be an effort by some developed countries to bring issues that many developing countries, and civil society around the world, have rejected in bilateral or plurilateral so-called free trade agreements (FTAs) into the WTO. This appears to include the idea of giving new “rights” to advanced technology corporations to unlimited cross-border data transfers through e-commerce talks. A few members also appear interested in imposing on the WTO membership include disciplines on state-owned

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owned enterprises (which can be a key engine of domestic economic growth in many countries); and other so-called “new issues” which have yet to be defined by members seeking the mandate nonetheless to discuss them. The WTO Ministerial will be a failure from a development perspective if “new issues” – including under the sneaky rubric of “discussions on global value chains (GVCs) or the digital economy” – are agreed to in Nairobi as part of the post-Ministerial agenda.

Civil society has long witnessed and condemned the unfair negotiations process in the WTO, in which the positions of powerful members are given predominance over the positions and needs of the vast majority of members who are developing countries, while the interests of workers, farmers, and the environment are shunted to the background in favor of corporate profit objectives. It is most unfortunate that under the current leadership, this phenomenon appears to have become even worse, even though the Director General hails from a developing nation.

Nairobi will be a crucial arbiter of the future of the global trade system. Will the WTO continue business as usual, in which the corporate interests of the powerful countries dominate, and the development mandate is abandoned in favor of talks on liberalization of new issues? Or will the WTO members heed the needs of the LDCs; of the poor in all our countries; of farmers struggling to make a living; of workers seeking decent work; and of the environment for our common stewardship?

For the Ministerial to “work” for food, jobs, and sustainable development, the necessary outcome is clear: the transformation of the gross inequities in the global agricultural system must begin, including: removing WTO obstacles to public stockholding for food security; a concrete and workable SSM; and disciplining domestic supports and export competition. Across the WTO, development demands must be met, including the full scope of the G90 proposals for all developing countries, and the operationalizing of the LDC package. The corporate and rich country government agenda of permanently abandoning the development mandate must be forestalled, along with the imposition of a set of already-rejected or ill-defined non-trade “new issues.”

## **Joint Statement By African and Indian Civil Society on The Forthcoming Nairobi Ministerial of the WTO**

Released On The Occasion Of The Third India-Africa Forum Summit 23 October 2015

We, on behalf of civil society in Africa and India, write to you, the Heads of Governments in Africa's 54 countries and India as you meet for the Third India-Africa Forum Summit (IAFS-III) through 26-29th October in New Delhi, India. As you all deliberate on a 'reinvigorated partnership-shared vision', we would urge you to consider the common economic, social and environmental challenges that all our countries face, while reminding you of the issues at stake at the forthcoming Tenth Ministerial Conference (MC10) of the World Trade Organisation (WTO) that will take place in Nairobi, Kenya, between December 15-18th this year.

One of the main objectives of the WTO was to create more opportunities for the developing world, and even more so for least developed countries (LDCs), so they could advance their development progress. As a result, the world was to see a more balanced economic and, hopefully, socially just order. However, after twenty years of the WTO, we do not see any materialisation of those promises from global trade rules. In spite of some strengthening of developing country voices, the developed countries and the transnational corporations within them have grown more powerful, strident and aggressive. They have made it clear that they are interested in the WTO only to "take" from and not to "give" to developing countries. The current Director General, Roberto Azevedo, (himself from a developing country) and the WTO Secretariat and its functionaries, are taking pro-developed country positions in the desperation to retain WTO's relevance as a multilateral forum.

In fact, even the WTO's Doha Development Round, launched in 2001 and mandated to address core development issues faced by the South, continues to see stiff opposition by the developed countries to any concessions for developing countries and to removal of barriers, which could actually enable them to provide better economic and social opportunities to their people. Special and differential (S&D) treatment in agriculture and NAMA, for example through easier terms for tariff cuts, Special Products and Special Safeguard Mechanism (SSM) in agriculture, easier Rules of Origin for LDCs, and most importantly talks on agricultural subsidies including on cotton given by the West have failed to get anywhere.

It is not only that the WTO is not helping realize development pathways in the South; it is actively threatening development policy space and development-oriented programmes in the developing world. The stiff resistance by the USA, EU, and other developed countries to negotiate a permanent solution to the food security proposal and a development-oriented outcome in agriculture, which is not only of key interest to India and several African countries, but also to many other developing countries, is a clear evidence of this challenge. Agriculture and food, and the ability to continue to produce food, is a core development need in both India and Africa.

In NAMA (Non-agricultural market access), the developed countries continue to insist not only on adverse formulas on tariff cuts that will force developing countries to cut more tariffs, but also on "Sectorals or zero-for-zero" where some sectors will see total elimination of tariffs with immediate effect. The NAMA proposals will severely limit domestic industrialization and job creation prospects in Africa and India.

The TRIPS Agreement under the WTO set up intellectual property rights (IPRs) standards which are being pushed through trade rules; it creates barriers to technology development and transfer in developing countries with impacts on access to medicines & health care, key agricultural inputs including seeds varieties and traditional knowledge. However, the TRIPS Agreement had offered some flexibilities to developing countries that could help them protect important development priorities.

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These flexibilities are now being increasingly challenged. Moreover, the TRIPS waiver for LDCs is continuously under negotiation and is used as a lever to extract other concessions. Now developed countries are opposing amendments to TRIPS Rules to prevent 'biopiracy' from Africa, India and several other developing countries.

The current WTO situation presents grave contradictions. Instead of creating spaces to foster growth and development, we see more and more aggressive demands are made of developing countries to prize open their economies on very unfair terms, which would threaten livelihoods, food security, locally beneficial industrialization and beneficiation (local value addition). The current negotiations at the WTO clearly indicate these contradictions, created by the aggressive positioning of the developed countries: pushing a binding Trade Facilitation Agreement (TFA) while not granting a permanent solution to food security and offering only a "best endeavor" (I will try my best) LDC package; offering no cuts in domestic subsidies but instead asking developing countries to cut subsidies and grant further market access; and blocking TRIPS flexibilities while pushing for higher IPR protection through TRIPS.

Further, the developed countries are creating parallel and aggressive mechanisms through secret negotiations of plurilateral agreements such as Trade in Services Agreement (TISA), Information Technology Agreement-2 (ITA-2), Agreement in Environmental Goods and Services, and bilateral trade and investment agreements all of which thwart the multilateral nature of the WTO.

As you discuss issues of critical importance for us, for your people, at this important Summit, we put on the table the following specific recommendations that civil society in India and across African countries want to put forward to their leaders:

- Ensure a strong development outcome at the Nairobi MC10 of WTO with significant gains for developing and least developed countries. The "success" of the Ministerial should not be valued in terms of reaching the low hanging fruits, which favours developed countries but one that actually equips developing countries to address key economic, social and environmental needs;
- The Doha Development Round should not be concluded in Nairobi or later without a meaningful development package and no other round should be launched without addressing the core development issues that the DDR was mandated to address. In particular, the Singapore Issues including government procurement, competition policy, investment and any "new issues" would severely restrict space for implementing development oriented policies and hence should not be touched;
- Specific deliverables of a development package should include but not be limited to; a permanent solution on the food security proposal that allows essential subsidies to producers for supporting public food stockholding; discussions on domestic subsidies by the advanced countries like the USA and the EU, an agreement on elimination of export subsidies, special and differential treatment (S&DT) for developing countries in all aspects of agricultural and NAMA negotiations including on tariff cuts and safeguard mechanisms, 'Biodiversity Amendment' to the TRIPS Agreement to prevent 'biopiracy', and a strong LDC package. On the other hand, further advances in and weakening of the flexibilities of the TRIPS Agreement, the Trade Facilitation Agreement (TFA) and further talks on plurilaterals and mega regional FTAs should be blocked; and,

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- Conduct the negotiations in a transparent, inclusive and fair manner that truly reflects the multilateral nature of the WTO and not participate in small 'green room' discussions and dealings that leave a large number of Member States out of discussions that would critically impact their people and the planet.

India and Africa have played a key role in WTO negotiations, most often supporting strong developing country positions. They have a crucial role to play in this Ministerial. It is of tremendous importance that the WTO Ministerial Conference is being held in Africa. As a strong and articulate advocate of developing country space in the WTO, the African countries, and Kenya in particular, has a responsibility to ensure a balanced and development friendly outcome at the Ministerial. The "success" of the Ministerial will only be a success if it delivers on key development objectives of the South that includes the interests of the people in Africa and India and benefits all people in the developing world. If it can't, it is of no interest to us.

Working together, India and Africa must ensure our people have access to diversified opportunities for livelihoods, jobs and incomes, healthy food to eat and the ability to produce it locally, have access to adequate services, such as drinking water, health and sanitation, natural resources, and live in a safe and sustainable environment. No trade rules should come in the way of attaining these objectives. The WTO in particular must be allowed only to forward and not to hinder these objectives.

Our leaders must also remember the commitments they made in the recently adopted 2030 Agenda for Sustainable Development, which is to "leave no one behind". They know it will be impossible to follow the principles of this Agenda and meet the Sustainable Development Goals (SDGs) without fair trade rules and other means of implementation. That is why they fought so hard on these issues in these negotiations. But unless they hold strong against pressures and keep reiterating their development priorities and fight for the policy space to realise those, their commitments to the global community and to their own people will be meaningless. The WTO and the Nairobi Ministerial is the place where this commitment must be made real. As Kenya prepares to host the WTO's MC10, we urge you to keep in your mind your people and their needs, and not to put trade before people. As all of you prepare to engage with the WTO until December and beyond, you must ask yourselves the questions: What has the WTO done for us so far? What can I gain here that I can justify my engagement with the WTO to my people? What can I take back from Delhi, India that helps us all move trade and development in the right direction? We are all waiting eagerly to hear the answers from you.

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## UPCOMING EVENTS 2016

### SAVE THE DATES FOR THESE UPCOMING EVENTS

1. 4th Annual EAC Secretary Generals' Forum 2015, Kigali, Rwanda Themed "Good Governance and Constitutionalism in the East African Community" 5th-6th February 2016
2. The 6th Annual EAC Health and Scientific Conference and International Health Exhibition and Trade Fair: March 2016: Bujumbura, Burundi;
3. World Health Summit Geneva Meeting, Geneva International Conference Centre (CICG) Switzerland, 19th-21st April 2016;
4. The 5th Annual East Africa Healthcare Federation (EAHF) Conference will be hosted by the Uganda Healthcare Federation (UHF) at the Sheraton Hotel in Kampala, Uganda 26th-28th May, 2016 theme "The role of the private sector in attaining the sustainable development goals". The conference will challenge the private sector, government, civic and development partners to examine their strategies, investments and partnerships that will determine the region's success in attaining the Sustainable Development Goals (SDGs)

### Are You Interested in Joining EACSOF Membership or Supporting EACSOF?

EACSOF is the only inclusive platform for all CSO in East Africa ; EACSOF is a space for CSO shared learning and collective action. Under the EAC Consultative Dialogue Framework, EACSOF is mandated as the CSO focal point for active participation in the integration process in pursuit of Article 127 of the Treaty for establishment of the EAC. EACSOF draws its membership from Civil Society Organizations include, Non-Governmental Organizations, Community Based Organizations, Faith Based Organizations, networks and Coalitions of such Organizations situated within the East Africa Community Member States. Join EACSOF Membership so as to contribute to the empowering of active citizenry for sustainable development and growth in East Africa. Benefits Include: EAC news updates, attend EACSOF events and networking with other prominent CSO.

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