

**Protecting health and equitable health
services in the Economic Partnership
Agreements in east and southern Africa**

Regional Workshop Report

**September 18 and 19 2008
Munyonyo, Uganda**



**Southern and Eastern African Trade Information and
Negotiations Institute (SEATINI)
in the Regional Network for Equity in Health in east and
southern Africa (EQUINET)**

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1. Background

The Regional Network for Equity in Health in East and Southern Africa (EQUINET) is a network of professionals, civil society members, policy makers, state officials and others within the region that have come together as an equity catalyst, to promote and realize shared values of equity and social justice in health (www.equinet africa.org). EQUINET gathers people to overcome isolation, give voice and promote networking using bottom-up approaches built on shared values. The members come together in a spirit of self determination and collective self reliance working through existing government, civil society, research and other mechanisms and institutions in the East and Southern Africa region. EQUINET is building a forum for dialogue, learning, sharing of information and experience and critical analysis. We do this to build knowledge and perspectives, shape effective strategies, and strengthen our voice nationally, regionally and globally and our strategic alliances to influence policy, politics and practice towards health equity and social justice.

SEATINI (www.seatini.org) with TARSC under the umbrella of the EQUINET have carried out skills building, research and information exchange on the effects of trade agreements on health. In 2007, this work focused on key trade and health issues, including Intellectual Property Rights protection in the TRIPS agreement and access to medicines, and the Economic Partnership Agreement (EPA) being negotiated with the European Union. ESA governments are urged to protect obligations to health in the EPAs through ensuring inclusion of key clauses, i.e.:

- Explicit inclusion of a commitment to interpret and implement any clauses in a manner supportive of ESA countries' right to protect public health.
- Protection of TRIPS flexibilities (with no TRIPS plus clauses) and capacity support for implementation of TRIPS flexibilities.
- Exclusion of any commitments to liberalise health services as well as inclusion of a requirement for health impact assessments in any health related sector where there may be impacts on health, prior to commitments being made;
- Explicit provision for information, investments and capacity support to governments and social partners to manage, regulate and implement full flexibilities in relation to the health aspects of trade and to provide for losses to public revenue from trade measures.

As a follow up to this work, in 2008, SEATINI and EQUINET held a workshop which brought together civil society, parliamentarians, human rights commissions, trade and health ministries officials to review and deliberate on protection of health and access to health care services in the ongoing EPA negotiations, and particularly in the services negotiations. The meeting aimed to:

- Update on current health and trade issues, including patenting laws and the EPA negotiations and more generally legal frameworks for ensuring protection of public health in trade agreements.
- Review the technical analysis report developed looking on the services negotiations in the Economic Partnership Agreements.
- Review and develop key positions to be advanced for the protection of public health in trade agreements and strategies for advancing them.
- Developing and adopting strategies for the advancement of the negotiating positions.

2. Welcome and opening remarks

Honourable Rosemary Seninde from the parliament of Uganda welcomed the participants to Uganda and wished them a pleasant stay in Uganda and fruitful deliberations in the workshop. Honourable, Seninde is a member of the social services committee in the Ugandan Parliament. She said that she was hopeful that the deliberations of the workshop will contribute immensely towards the improvement of the lives of the people of the ESA region. She also invited the participants to take time to enjoy the beauty of Uganda.

Ambassador Nathan Irumba, the Chief Executive Director of SEATINI welcomed the participants to the workshop and to Uganda. He gave a brief background of SEATINI explaining its vision and mission. He stated that SEATINI was founded in 1996 following the World Trade Organisation Singapore Ministerial Conference after realising that the developing countries were being marginalised in the WTO negotiations. He highlighted the fact that in most cases African governments sign international trade agreements without adequate information or analysis with dire consequences on people's livelihoods. The marginalisation of Africa and the rest of the developing world were compounded by the fact that there is still limited participation of key stakeholders in these global processes. SEATINI's main purpose is to strengthen the capacity of African trade negotiators and other key stakeholders such as civil society and Members of Parliament to take a more effective role in the global trading system and to better manage the process of globalisation.

He highlighted the importance of bringing stakeholders together to discuss and formulate strategies on how to fight the negative impact of Economic Partnership Agreements. He wished all the participants fruitful deliberations.

3. Economic Partnership Agreements: Status, health issues and implications

Presented by Aulline Mabika (SEATINI)

The presenter began by highlighting the health challenges faced by ESA as a region. She showed that ESA carries the heaviest burden of HIV/AIDS and yet controls very little resources to combat the pandemic. These health conditions demand health systems that:

- meet and protect rights to health for all in society (universally);
- invest in and resource accessible, frontline comprehensive services that effectively address the major problems people face;
- direct resources towards those with greatest health need and protect against poverty; and
- raise adequate resources from those able to pay (progressive financing, with cross subsidy) (EQUINET, 2007).

She then said that the ESA region suffered loss of resources for health and one of the causes of this is unjust trade agreements. She went on to give a background of Economic partnership Agreements. She traced EU-ACP relations since the Lome conventions right to the Cotonou Partnership Agreement.

- For 25 years ending in February 2000, trade and other economic relations between the EU and ACP states were governed by a series of Lomé conventions.
- The Lomé trade regime provided non-reciprocal preferential access to the EU market for ACP states.
- EU's future trade policy towards African members of the ACP group beyond the Lomé trade regime was articulated in various proposals leading to the ACP- EU Cotonou Partnership Agreement signed in Cotonou (Benin Republic) in June 2000.

Countries that have initialled the interim EPAs and those that haven't are shown below:

- *Eastern and Southern African Group (ESA)* – an interim EPA between the EU and the Seychelles, Zimbabwe, Mauritius, Comoros and Madagascar.
- *East African Community (EAC)* – an interim EPA between the EU and Burundi, Kenya, Rwanda, Tanzania, Uganda (not initialled in both EAC and ESA are Djibouti, Eritrea, Ethiopia, Malawi, Zambia, Sudan).
- *Southern African Development Community (SADC)* an interim EPA between the EU and Botswana, Lesotho, Namibia, Mozambique and Swaziland, but excluding South Africa.

The presenter highlighted the EPA implications for health, particularly the negative consequences for equity of health sector liberalisation, which:

- Increases “cream skimming” practice by private sector, which:
 - favours healthy and wealthy (increasing inequalities);
 - draws personnel away from public health services; and
 - decreases support for universal public health program.
- Undermines public health systems denying the basic principles of cross-subsidisation and risk pooling.
- Risks domination by translational corporations to the exclusion of domestic development.
- Risks compromising the quality of health care delivery.
- Leads to liberalisation of other sectors, e.g. water, sanitation, education, environment.
- Leads to shrinking policy space available to promote developmental objectives such as health equity and food security.

The presentation also noted that parties are negotiating Intellectual Property rights, areas with serious implications for access to medicines as well as food security. The inclusion of IPRs in the negotiations is in line with the EUs Global Europe strategy, which states that, ‘the EU should seek to strengthen IPR provisions in future bilateral agreements and the enforcement of existing commitments’ (EC, 2006). The European Commission insisted on the inclusion of intellectual property in negotiations.

ESA countries should ensure that the use of flexibilities contained in the TRIPS agreement on the protection of public health are preserved and enhanced in the EPA. On the issue of patenting of seed varieties and its implication for food security the presenter highlighted the fact that the TRIPS Agreement, in Article 27.3.b, gives countries the flexibility to determine for themselves the appropriate system for the protection of plant varieties. Given the vulnerability of farmers and rural workers in ESA countries, it is imperative that any system of seed production, use and distribution is sensitive to local needs and does not impose a one-size fits all approach. ESA countries should be free to craft more appropriate systems of their own.

The presentation ended by calling on all stakeholders to ensure that public health objectives are protected. ESA countries should thus ensure that the EPA spells out the provisions for monitoring and meeting the public revenue losses arising directly from the EPA; and Commits to protecting public spending on health to at least the 15% government spending on health set in Abuja and to an increase in capita spending towards the \$60 per capita estimated by WHO. The presenter also stated that EQUINET/SEATINI recommends that ESA governments not sign the EPAs until it includes key clauses protecting health, such as explicit inclusion of a commitment to interpret and implement any EPA clauses in a manner supportive of ESA countries right to protect public health. The final EPA should also provide for protection of TRIPS flexibilities (with no TRIPS plus clauses) and capacity support for implementation of TRIPS flexibilities and that there should be inclusion of a requirement for health impact assessments in any health related sector where there may be impacts on health, prior to commitments being made. Maintenance of African protective subsidies on agriculture until EU removes its distorting subsidies.

4. Experiences in protecting health: content and issues in the negotiations

Facilitated by Moses Mulumba of HEPS Uganda

After the introductory presentation, participants had an opportunity to share experiences from their different countries on protecting health especially focusing on the content and issues arising from the EPA negotiations. The facilitator introduced the session and highlighted that the sharing of experiences should really focus on the potential impact of EPAs on health and other social services with an impact on health as well as access to medicines. He also stated that in the session it was important to bring out the sector links between different initiatives being taken by the different countries.

4.1 Kenya experiences

Presented by Mr Misati, Patent Examiner from Kenya

Mr Misati gave a brief background of the negotiating structures of EPAs in Kenya as well as the challenges faced by these structures. He informed the meeting that regarding the WTO negotiations the Structure is composed of all stakeholders that are involved in trade. There are working groups focusing on the different areas under negotiation in the WTO such as Intellectual property rights, services etc. There are taskforces which feed into the working groups. These taskforces are the ones that are in touch with the people on the ground hence the people's concerns are taken into the negotiating structures through the taskforce.

On Economic Partnership Agreements Mr Misati informed the workshop that there is a committee of 5 clusters that lead national position development on all areas under EPAs. The committee is financed by the European Union. He also highlighted that the delegation to the Regional Negotiating Forum involve all stakeholders such as business, civil society and government ministries.

He cited the challenges as follows:

- Lack of technical capacity to undertake negotiations with European Commission. He highlighted that the negotiators have some knowledge but the ability to apply this knowledge in the actual negotiations is lacking.
- He also cited political interferences from the negotiating partners as one challenge facing the negotiations. He cited one example when the developed countries employed some tactics to keep the team from Kenya out of the negotiating rooms so that positions on certain issues of interest to them would be taken in their absence.
- The legislative framework- he informed the workshop of the counterfeit bill that is before parliament. He stated that the provisions of the bill were worrisome as far as they don't provide adequate protection to public health. He however advised that HAI Africa was organised a workshop which focused on ways in which the bill can be improved protect public health.

There were a number of interventions from the other participants following Mr Misati's submissions. One participant responded to the challenge of capacity by stating that the ESA Services text was now available with EU comments on it. It is clear that the EU is pursuing an aggressive market access agenda in services, as part of its global strategy. She advised that our governments should move away from the excuse of lack of capacity and start investing in building capacities of negotiators. Mr Misati stated in his response that the issue of capacity will continue to arise. This is so because capacity to negotiate trade in Africa is limited in both numbers and technical know-how.

Dr Ronald Inyangala from Kenya Ministry of Health also highlighted another dilemma in negotiating health in trade agreements. He said that there are two areas of concern when it comes to health because it can be negotiated as a service and also in trade in goods. He gave an example of medicines, saying that medicines are traded as goods but there are also used to provide a service. He also made reference to the COMESA Protocol on health services which gives more restrictions on mode 4. He voiced a concern that our health workers are treated as cheap labour without respect for their qualifications.

Another intervention questioned the sincerity of the EU in funding the negotiating processes in ESA as well as its capacity building. Itai Rusike concluded in his intervention that the power dynamics are already tilted hence African countries should be very careful about some of the money from the EU.

Honourable Munyaka from Parliament of Kenya suggested that we need as Africa to come up with our own technocrats to help us participate in the WTO as well as strengthening our regulatory bodies

He also highlighted the need to protect and promote our traditional medicines in trade agreements. He called for all stakeholders to promote and encourage South-South cooperation and to ensure that the EPAs promote these objectives. He said currently this is not evident in the negotiations.

4.2 Uganda Experiences

Presented by Rosette Mutambi, HEPS Uganda

The link between trade and health is not widely appreciated by the stakeholders in Uganda. The link between the technical people in the EPA negotiations and the politicians has been lost somewhere. Rosetti highlighted the role played by civil society in trade and related matters in Uganda. She stated that HEPS had played a crucial role in analysing the Intellectual Property Bill as part of their cooperation and work with the parliament in Uganda.

Ambassador Nathan Irumba the Chief Executive Director of SEATINI added his voice behind the challenges facing negotiators of trade agreements in Uganda. He attributed the main problem to the neo-liberal mindset that informs most policies in Uganda. He said that liberalisation is regarded as a magic word so if you speak against it you are regarded as a spoiler. He also said that negotiators have not appreciated the importance of regulation. He noted that EAC is negotiating government procurement, which has serious implications for development hence health. Government procurement could be used by developing countries as a developmental tool and yet the EU is insisting on including it in the EPA. Yet due to supply side constraints ESA countries cannot have even the slimmest chance to land a supply tender to any EU country. He referred to the inclusion of the Singapore issues in the EPAs as worrisome. He also made reference to the politics of trade. He highlighted how the EU funds some members of the civil society to counter the anti-liberalisation drive. He also gave an example of how the message to promote the production of generics is countered by presenting generics as counterfeits making many people to confuse generics with counterfeits.

4.3 Zimbabwe experience

Presented by Mary Maunga, Medicines Control Authority of Zimbabwe, Ministry of Health and Child Welfare

Regarding the Zimbabwean experience of the protection of health in EPA negotiations, Ms Maunga acknowledged trade has implications for health and there is need to strike a balance between the need to trade and the need to protect health. She also concurred with the experiences of Kenya and Uganda with regards to lack of capacity of trade negotiators in ESA. Talking from a regulatory point of view, she highlighted the need to strengthen the regulatory framework in light of the threat to health from global trade policies. She said Zimbabwe had tried to put regulations in place especially regarding the import of medicines as well as a bill on counterfeit medicines.

Interventions from the workshop showed that regulating medicines will be difficult especially in light of e-trade, because now even prescription drugs are being sold on internet sites such as e-bay. Developing countries need to brace themselves for these challenges being presented by fast developing e-trade.

5. Challenges in negotiating trade agreements

This session highlighted the challenges being faced by the countries negotiating EPAs and other trade agreements, including lack of capacity, political interference in negotiations, inequality between negotiating partners and the use of funding to control the negotiating process.

One participant asked for an unpacking of the term liberalisation and the reason why it was not good for Africa. Liberalisation was explained as the removal of protection of health services. Liberalisation is also characterised by the deregulation of the market with fewer or no controls on foreign investment. Removal or cuts in government spending including funding of social services such as health and its determinants like water and sanitation. While proponents of liberalisation hail it as the answer to attracting foreign direct investment, the reality on the ground shows that liberalisation does not improve livelihoods of poor people especially their access to basic services. Structural adjustment programmes introduced in Southern African countries in the late eighties to early nineties testify to how liberalisation worsens poverty and inhibits access by poor people to critical social services. Any form of liberalisation to be undertaken by developing countries should not be imposed from outside but be undertaken voluntarily in consultation with all stakeholders and according to the developmental priorities of these countries.

6. Health issues in the services negotiations in EPA: A technical review

Presented by Elijah Munyuki, Consultant

Elijah highlighted the critical areas covered in the research and a brief background to trade in health services. He stressed that there is money to be made in providing health services, giving example of OECD countries that make about US\$3 trillion from selling health services. The EU market driven agenda is the force behind the agenda to negotiate services in the EPA negotiations. However, in negotiating services, countries need to be aware of their commitments to protect promote and provide basic social services under the international, regional and national human rights commitment.

He highlighted the United Nations Treaties with provisions to protect the right to health as follows:

- UN Declaration of Human rights
- Article 12 of international Covenant on Economic, Social and Cultural Rights
- The African Charter on human and peoples' rights

He called on ESA countries to respect commitments they have made regionally to protect public health such as the Abuja Commitment of 15% government spending on health.

He also alluded to provisions in the Cotonou Partnership Agreements which form the basis of negotiating an EPA. For example, Article 25 provides for adequate level of spending in the critical areas such as health systems, water as well as developing strategies for reproductive health. This provision is further buttressed by Article 31 which

provides that the agreement should ensure that women have 'Access to basic social services, especially to education and training, *health care and family planning.*'

Commitments made for the liberalisation of trade in goods in the interim EPA have an impact on health delivery systems in the ESA states through revenue losses and the subsequent reduction of public funding for the health sectors in these countries. From the onset, it is important to stress that the EPA does not make specific or general provisions addressing the health sector in the ESA countries. One has to read the health sector needs into the general promises for development as contained in articles catering to development cooperation and the general objectives of the IEPA. For example Article 2(a) states that one of the objectives of the EPA is:

Contributing to the reduction and eventual eradication of poverty through the establishment of a strengthened and strategic trade and development partnership consistent with the objective of sustainable development, the Millennium Development Goals and the Cotonou Agreement.

He went on to advise the meeting that the EPA services negotiations are supposed to comply with GATS provisions under the WTO. He then went on to explain the way in which services are traded as according to article 1.2 of the GATS being:

- i. from the territory of one Member into the territory of any other Member;
- ii. in the territory of one Member to the service consumer of any other Member;
- iii. by a service supplier of one Member, through commercial presence in the territory of any other Member;
- iv. by a service supplier of one Member, through presence of natural persons of a Member in the territory of any other Member.

In ongoing EPA negotiations members should take full advantage of flexibilities in the GATS. For instance GATS Article V provides for elimination of existing discrimination. The same article also gives developing countries flexibilities with respect to the elimination of existing discrimination in the services sector. Developing countries are also given more room with respect to prohibition of new or more discriminatory measures. The paper is being made available separately as an EQUINET discussion paper.

6.1 Review of the paper

Facilitated by Christa Cepuch, HAI

The review was guided by the following questions:

- Has the paper covered all the areas we are concerned about in trade and health with respect to human rights?
- Has the paper highlighted the problems/challenges of liberalisation?
- Is the conclusion ensuring that a universally accessible public health system is maintained in the EPA negotiations?

Participants noted that even though the paper gave a position with regards health worker migration, there is need to harmonise the position with what has been agreed already in the IGWG strategy. The meeting suggested that it's better to go with an agreed position and improve on it if need be, than to propose a fresh position altogether.

The paper was noted to raise the issue of irreversibility of commitments made under international trade agreements. Participants raised a question on what type of reprisal a country gets if it wishes to go back on a commitment made under trade liberalisation? The paper needs to highlight these so as to show clearly the lock-in effects that trade liberalisation will have on the health sector.

It was suggested that national constitutions should make provisions to involve everyone in decisions that affect livelihoods such as the EPA negotiations. Apart from looking at the commitments on health the paper may need to look at constitutional provisions on public participation on issues affecting livelihoods.

It was queried why ESA countries were negotiating services and why the meeting was developing negotiating positions, when it is agreed that EPAs are bad for Africa? The question came with a suggestion that we should maintain a STOP EPA position. At this moment we cannot negotiate subsidies because Article 18(4) of the ESA agreement allows negotiating services

On the issue of political interference in trade negotiations by the EU and African governments parliamentarians showed willingness to speak against it, but highlighted that they can only do so if they have enough information. Civil society was challenged to share information with parliamentarians so that they can effectively contribute to the EPA negotiating process. This point was further reinforced by saying that the gap between civil society and legislatures needs to be closed because parliament can only put leaders to task when they have information and in most cases this information is obtainable from civil society. The Chairperson of SEAPACOH gave an overview of how this alliance has been engaging ministers of trade on the effects of trade agreements on health. It is important to harness our potential and negotiate as a region. The need for technical advice to strengthen the regional position in the negotiations was emphasised.

The workshop urged the author to strengthen the paper so that it clearly brings out that health should not be subject to trade negotiations under EPAs and that ESA countries should not make any commitments under the services negotiations that have implications for health.

The author agreed to incorporate the IGWG provision on health worker migration in the document. He also agreed with the participants that the paper doesn't give a detailed indication of subsidies; the paper will need to be strengthened by a table showing the subsidies that the EU is currently offering its service providers.

On country's going back on commitments under GATS, he observed that it is allowed, but is practically next to impossible. After satisfying the requirement for coming back on your commitment such as emergency, failure to meet balance of payment the country will then need to compensate all WTO members for lost business and profits both current and prospective. The compensation will be a lot of money such that no developing country can afford it, making it impossible for a country to renege on its commitment.

Even though ESA countries were reluctant to negotiate services, a lot of pressure from the EU to include services negotiations has led to a commitment to negotiate services in the EPA and negotiations have been going on in this sector. We cannot ignore this and we need to adopt positions to protect essential services. Services negotiations are not

only provided under EPAs but under GATS, COMESA, SADC and other trade arrangements hence the need to be vigilant about protecting health in trade agreements.

The author agreed that the paper must be strengthened to show that there is no justification for negotiating health and other health related services. The need for ESA negotiators to be vigilant in safeguarding people's health in the EPAs should be emphasised.

7. Negotiating positions on the services negotiations

Governments are obligated to respect, protect and fulfil the "right to health" by taking positive actions that ensure access to high quality health services and by refraining from or preventing negative actions that interfere with health.

The negotiating positions agreed in the meeting use Human Rights as a basis for the protecting health in the EPAs. The mandate derives from the provision of the Cotonou Partnership Agreement (which provides for the basis of EPA negotiations) which states that 'Cooperation shall be directed towards sustainable development centred on the human person, who is the main protagonist and beneficiary of development; this entails respect for and promotion of all human rights'.

The CPA makes it clear that respect for all human rights and fundamental freedoms, including respect for fundamental social rights, democracy based on the rule of law and transparent and accountable governance are an integral part of sustainable development.

The meeting thus noted the need to call on the EU and ESA countries to respect their international obligations and commitments concerning respect for human rights and to value their deep attachment to human dignity and human rights, which are legitimate aspirations of individuals and peoples. The parties should be bound by their undertaking in the CPA to promote and protect all fundamental freedoms and human rights, be they civil and political, or economic, social and cultural. In light of the commitments by both ESA and EU the parties to the EPA should ensure that clauses protecting public health are included in the EPA.

Therefore, the meeting observed that ESA countries must ensure the following issues are covered in current negotiations:

- **Achieving equity in health: implementation of Article 25 of the Cotonou Agreement** which provides that:
Cooperation shall support ACP States' efforts at developing general and sectoral policies and reforms which improve the coverage, quality of and access to basic social infrastructure and services and take account of local needs and specific demands of the most vulnerable and disadvantaged, thus reducing the inequalities of access to these services. Special attention shall be paid to ensuring adequate levels of public spending in the social sectors. In this context, cooperation shall aim at:
 - a. *improving health systems and nutrition, eliminating hunger and malnutrition, ensuring adequate food supply and security;*
 - b. *integrating population issues into development strategies in order to improve reproductive health, primary health care, family planning; and prevention of female genital mutilation;*

- c. *promoting the fight against HIV/AIDS; and*
- d. *increasing the security of household water and improving access to safe water and adequate sanitation.*

Trade liberalisation in the health sector will not promote improved health systems, access to health services and other health determinants such as nutrition, water and sanitation and hence should not be undertaken by ESA countries.

- **Placing the health sector as part of the development chapter of the comprehensive EPA:** implementation of Article 34 of the Cotonou Agreement which provides that economic and trade cooperation shall aim at fostering the smooth and gradual integration of the ACP States into the world economy, with due regard for their political choices and development priorities, thereby promoting their sustainable development and contributing to poverty eradication in ACP countries. This entails negotiating technical and development finance assistance targeting the health sector.
- **Economic and trade cooperation shall be implemented in full conformity with the provisions of the WTO,** including special and differential treatment, taking account of the Parties' mutual interests and their respective levels of development.
- **Ensure that TRIPS references in the Cotonou Agreement are used to implement flexibilities for ESA countries** rather than to promote only the interests of EU companies. The EPA should not commit our governments to TRIPS-plus provisions that include data exclusivity.
- **Negotiating bilateral agreements** on the movement of health personnel which includes issues such as:
 - i. Taxation of health professionals from ESA countries who migrate to the EU.
 - ii. Proportion of their taxable income to be remitted by EU states to the source country.
 - iii. Financial compensation to ESA countries for the loss of health professionals who migrate to the EU.
 - iv. Provision of technical assistance to the ESA health professionals training centres (to be harmonised with the IGWG position).
- **Negotiating a framework agreement for the EU to remove subsidies** which distort trade in health services and put ESA service suppliers at a disadvantage. Such rules should be agreed upon before any commitments are made by ESA countries (subsidies to be listed in the final technical paper). The issue of subsidy removal is still pending at the WTO hence there is no need for it to be negotiated in the EPA until they are settled at WTO.
- **Framing the overall services negotiations in the EPA within the flexibilities** offered to ESA countries under article V of the GATS. In particular;
 - i. Create longer periods for achieving substantial sectoral coverage, e.g. 15-20 years. But also, instead of just focusing on time limits, set targets such as attainment of the commitment in the Abuja Declaration or certain agreed health indicators.

- ii. Create longer periods for ESA countries to apply other Article V (GATS) flexibilities, e.g. on prohibition of new discriminatory measures and elimination of existing ones.
 - iii. Secure the EUs commitment to support ESA states with respect to any WTO concerns on the application of article V.6 of the GATS.
- **Financial commitment from the EU** to compensate for revenue losses, capacity building under TRIPS which will be reviewed with time for effectiveness.
 - **Strengthening regulatory capacities** (Element 6 (6.2) of the global strategy, IGWG) (need to harmonise the positions).
 - **Impact assessment** to be done, in the worst case scenario include a review clause

The above issues can be used to put more substance to the current ESA-EU draft on the in-built negotiations on services and trade related issues. At present there is not much substance in the draft, and it does not seem as if the development concerns of the ESA countries have been considered. The meeting agreed that health is a human right and should not be left to market forces but governments should play a major role in its provision and regulation. ESA levels of development cannot sustain any liberalisation in the health sector.

8. Follow up steps and roles to disseminate, monitor and support positions

Facilitated by Aulline Mabika, SEATINI

The facilitator acknowledged the various stakeholders represented in the meeting and the different roles they may play in advancing the positions agreed or raised in the meeting. The facilitator also acknowledged the need to fix the disconnect between civil society, parliamentarians and policy makers. She stressed that this meeting was a good starting point to address this.

There is need to formalise positions and the work with **parliaments** as a platform. The chairperson of SEAPACOH committed to engage with the membership of the network of parliamentary committees to take up the trade and health negotiating positions agreed in the workshop at country level. The parliamentarians also urged EQUINET to engage committees responsible for trade. SEAPACOH as an organisation will be able to feed into the pan-African parliament so that positions are adopted at continental level.

There is however a need to have the issues of trade discussed in a manner that is understandable. Some parliaments were engaging with trade and health issues for the first time and will need more accessible information to further educate themselves on the issues.

The parliamentarians also suggested that for continuity, programmes such as these need to involve parliamentary research staff who are permanent parliament staff unlike elected officials who may lose the next election. There is therefore need to finalise the position paper which will then be taken to parliaments through SEAPACOH.

Civil society members will play a major role in taking these positions forward and engaging government in the negotiating process. The **government representatives** present at the workshop noted that the national positions they adopt are formulated at the national negotiating forums which include civil society. Hence civil society will need to take the positions forward at these forums. The civil society members present however voiced a concern that their concerns are often not reflected in the final national positions and thus also missing in the regional positions.

9. Closing remarks

Aulline Mabika thanked the participants for taking time off their busy schedules to attend and participate in the meeting. She thanked all the participants for the valuable contribution to the meeting. She assured the participants that through cooperation between all stakeholders it was possible to build a continent where citizens have a say in their governance. Ms Mabika also thanked Hon Sinende and the people of Uganda for welcoming them so warmly to their country and for the comfort they afforded all the participants during the meeting. She wished all the participants safe journeys back to their homes and countries.

Appendix 1: Programme



**Southern and Eastern African Trade Information and
Negotiations Institute (SEATINI)
in the Regional Network for Equity in Health in east and southern
Africa (EQUINET)**



Regional workshop on trade and health:

Protecting health and equitable health services in the Economic Partnership Agreements in east and southern Africa

Munyonyo, Uganda, September 18-19, 2008

Programme

Time	Item	Facilitation
18 September 2008		
1400-1415	Registration, administration	Aulline, M Mulumba
Introductory session		
1415-1500	Welcome and introductions Workshop objectives	Hon MP Uganda A Mabika
Links between trade and health in the EPAs		
1500-1545	EPAs: Status of play, health issues and implications	Aulline Mabika
1545-1610	Tea/coffee	
1610-1700	Discussion and sharing of experiences on protecting health- content and issues in the negotiations: Uganda; Kenya; and Zimbabwe	Moses Mulumba
1700-1715	Issues arising to carry forward for Day 2	Aulline Mabika
19 September 2008		
Protecting health and equitable health services in the services negotiations		
0830-0930	Economic Partnership Agreements and the health issues in the services negotiations: technical analysis	Elijah Munyuki
0930-1030	Discussions and review of paper	Christa Cepuch, HAI
1030-1100	Tea/coffee	
Way forward		
1100-1145	Negotiating positions: Protecting health care in services negotiations in the EPA	Aulline Mabika
1145-1245	Discussion: shaping key positions to be advanced	Itai Rusike
1245-1400	Lunch	
1400-1545	Development and adoption of negotiating positions Discussion of follow up steps and roles to disseminate, monitor and support positions	Mulumba Moses Aulline Mabika
1545-1615	Closing	

Appendix 2: Participants List

Name	Institution	Address	Phone	Email
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