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NGOs statement on the draft Handbook for Sustainability Impact Assessments

April 2005

The undersigned NGOs welcome the initiative of the European Commission's (EC) Directorate General for Trade (DG Trade) to contribute to the improvement of the Sustainability Impact Assessment (SIAs) methodology by publishing the draft Handbook for Sustainability Impact Assessment (from now "the Handbook"). The undersigned NGOs also welcome the initiative to provide the space for a public consultation and allow civil society to input into the revision of the Handbook.

Recalling the 2002 NGO statement on SIAs of EU Trade Policy¹ the undersigned NGOs regret that many of the concerns raised in the 2002 NGO statement have failed to be incorporated within the Handbook's recommendations and would therefore like to use the opportunity, here provided, to input into the Handbook's review by reiterating a number of points: primarily, the need to ensure that SIAs shape and reorient trade negotiations, and not *vice versa*; the need to improve the methodology; and finally the need to offer concrete solutions for ensuring high-level commitment of key decision-makers to, and involvement in, the SIA process, as well as its integration within decision-making. Each point is discussed in more detail below.

¹ <http://www.foeeurope.org/trade/Joint%20NGO%20Statement%208th%20July%202002.doc>

1. *On the preliminary assessment of the envisaged mandate for the negotiations and on the drafting of the SIAs' terms of reference (ToR)*

- **Replace the preliminary in-house Impact Assessment (IA) with an independently executed SIA** to accompany the proposed negotiation mandate submitted by the EC to the Council. The IA, as currently foreseen by the *Better Regulation Package* and the *Sustainable Development strategy*, fails to ensure that the potential environmental, developmental, social and economic impacts of the envisaged mandated negotiations are given full consideration. The Handbook must address this by recommending that the current IA ought to be replaced with a preliminary SIA.
- **Expand the Terms of Reference (ToR) of the SIAs.** The current scope of the SIAs has been limited to the provision of recommendations aimed at identifying flanking measures for the mitigation of the negative impacts resulting from the negotiations. The Handbook must acknowledge this limitation and recommend that the scope of SIAs ought to be expanded. SIAs must be allowed to question the adequacy of trade liberalisation itself and provide recommendations as to where limits should be placed.
- **Ensure a wider expert participation in the drafting of the SIAs' Terms of Reference (ToR).** Currently, the ToR for the SIAs are framed by the conclusions of the preliminary IA. The Handbook, as well as supporting the replacement of the IA with an SIA (as demanded above), should also recommend opening up the process of framing the SIA's scope and assumptions to a wider constituency. The Handbook puts forward the proposal of creating an International Steering Committee (ISC) comprising high level trade and environment experts from Government and civil society as well as representative from Intergovernmental Organisations (IGOs), to provide guidance to SIA practitioners, both on the substance and the process of SIAs. Although this represents a positive initiative for strengthening the scientific basis of the assessment, such a committee ought to be also involved in framing the SIAs' ToR. This would ensure (a) that the concerns addressed by the SIAs did not reflect the concerns of the Commission Services alone, (b) greater credibility to the SIAs' methodology and outcomes and (c) the EC's commitment to a truly balanced and independent assessment of its trade negotiations.

2. *On the improvement of the SIA methodology*

- **Ensure geographical and community representation in the assessment process.** The suggestion of setting up an International Steering Committee (ISC) is a positive initiative. However, in order to ensure (a) the legitimacy of the ISC's reflections, and (b) the analytical rigour of the analysis, the Handbook must suggest that, as well as relying on international expertise, the ISC must also rely on local knowledge and community representation of the geographical areas potentially affected by the negotiations. Local knowledge and community representation will not only enhance the relevance of SIA's overall assessment, but also provide useful insight into the impacts at livelihood level. The handbook ought to address this issue particularly in the context of bilateral negotiations. The Handbook should recommend that the SIA team spoke the dominant regional language (eg.: Spanish) and that sufficient resources are to be provided to allow for the translation of essential documents in the region.
- **Ensure involvement of third countries.** So far, third countries (developing countries especially) have shown reluctance towards SIAs and have viewed them mainly as an instrument of the EC. Involving them more actively would ensure the legitimacy of SIAs.

- **Ensure a comprehensive assessment of the combined impacts of the negotiations.** Regrettably, the current SIAs methodology has failed to provide a comprehensive assessment of the combined impacts of trade negotiations. Both affected sectors and the impacts (environmental, social and economic), have been assessed in isolation, providing only a partial understanding of what the effective outcome of the negotiations may be. Moreover, recalling the 2002 NGO statement, another “*major failing of the studies so far is their neglect of gender issues. An analysis of the trade negotiation from a gender perspective would permit the anticipation of the differentiated effect and impacts of trade liberalisation by gender and the identification of sectors that represent opportunities for women.*” Consequently, the Handbook must recommend that, as well as considering the individual impacts of single sectors, SIAs must also provide an evaluation of the combined impacts (environmental, social, and economic, as well as from a gender perspective) of the negotiations in all areas and sectors combined.

- **Ensure that trade-measures of negotiated agreements are also adequately assessed.** Currently, the methodology has consistently neglected the extent to which the agreements’ trade measures may impact on the political and institutional ability of governments to successfully implement flanking measures. As a result of this methodological failure, the environmental, social and economic impacts of the negotiations may have been underestimated considerably. It is important that the Handbook addresses the need to ensure that SIAs do not simply assess the impacts of liberalisation or of the agreements, but also the impact of their trade measures (e.g. market access rules under GATS agreement), as well as their impacts combined.

- **Ensure that the impact assessment reflects the “reality of the market”.** The Handbook should recommend that SIAs go beyond macro-economic research and provide an insight to the “reality of the market”. This would entail looking at (a) the dominant corporations in the sector, (b) their market share and (c) the impacts these would have on the sector once liberalised (eg.: their impact on newcomers and small companies in developing countries). This would allow to determine the effective “winners” and “losers” of trade liberalisation.

- **Ensure adequate financial support.** In order for SIAs to successfully address the abovementioned concerns – necessary for ensuring an adequate assessment of the potential negotiations’ impacts, and hence provide legitimacy to the SIAs’ conclusions – the Handbook ought to recommend that SIAs benefit from adequate financial support.

3. *On the policy integration of SIAs*

- **Ensure that SIAs are integrated during the negotiations.** The Handbook (SIA diagram on page 9) currently suggests that SIAs may be integrated in the policy-making process either *during* or *after* the negotiations. In order for the SIAs to have any policy relevance, the current text must be amended to recommend that SIAs are to be integrated *before* and *during* the negotiations (as demanded above), but certainly not *after*, since this would prove politically irrelevant. Moreover, the Handbook also fails to develop a set of substantial recommendations on how the integration of the SIA results within the negotiations should be ensured. To recall from the 2002 statement: “*SIAs are being conducted at arms length from policy-making, and policy makers are not sufficiently involved in the SIA process. There must be high-level commitment to, and involvement in, the SIA process. Unless Commissioners, senior officials in the Commission, Member State Ministers, and other senior personnel are committed to and involved in the process, SIA will remain at the periphery of policy-making and rarely go beyond the officials managing the consultants who conduct the research*”. The handbook must devise mechanisms for ensuring high-level commitment to, and involvement in, the SIA process.

- **Expand the exposure to, and the input in, the SIA process of other EU institutions.** Although the above mentioned points aim at improving the quality of the SIAs methodology, this alone will not ensure the policy integration of SIAs. Indeed, this will require primarily the political will of negotiators to integrate the result into their negotiations and possibly alter their position accordingly. It is therefore necessary that the Handbook addresses the need to strengthen the involvement of other EU institutions in the SIA process:

European Parliament The EC should report regularly to the European Parliament (EP) – and whenever there is a discussion with Parliament either on bilateral/regional trade agreements or WTO negotiations, both in Committee and Plenary – the results of the relevant SIAs along with an explanation as to how these have informed negotiations. DG Trade should ensure that a formal and regular dialogue is initiated with the EP’s committees on the environment, development as well as with the committee on international trade (INTA). The EC and the Council could inform the EP in writing about their discussions and conclusions on the SIAs.

Council Given the responsibility of the General Affairs Council (GAC) to the co-ordination of EU policies, there should be a formal and structured involvement of the GAC and a high-level commitment by it to the SIA process.
Trade Ministers in the Council should be regularly briefed on SIAs’ results during their meetings in order to inform their deliberations. SIAs should also be mainstreamed into the discussions within the Article 133 Committee (C133). Currently this has not followed a systematic approach and, on those rare occasions when SIAs have been discussed in such fora, they have regularly been tagged on to the end of the agenda.

Member States Member States should play a greater role in the elaboration of SIAs. Key decisions on trade policy are made in Capitals before they even reach the C133 in the Council. More effort should be placed on informing Member States of SIA findings, as well as involving more closely Member States in the review process. There should be designated contact points within different Ministries in Member States responsible for informing civil society at the national level.

- **Enhance policy coherence and inter-service co-ordination.** So far, the debate around SIAs has mostly been restricted to the DG Trade circuit. Given that, as the EC itself has declared, trade should be an engine for sustainable development, we strongly recommend the active involvement of key players within DG Development, Environment and Humanitarian Aid. Recalling the 2002 NGO statement, *“SIA should promote the overall coherence of the EU’s external objectives in the fields of trade, poverty alleviation, human rights and environmental protection. SIA is a cross-cutting tool which has implications for all areas of EU policy. In this context, the results of these assessments should be taken into account in the formulation of the EU negotiating position at international and inter-regional fora, and should highlight the interests of developing countries in the sectors which are important for their national development process and for the self-sufficiency of their population, as well the economic and social rights of women in developing countries and in Europe”*. This could entail disseminating the SIAs to other Units within the EC, as well as within Member States, such as the development departments, social affairs departments, employment departments, etc.
As well as supporting the above mentioned points, the Handbook would benefit from elucidating what is the current state of affairs with reference to the involvement of the above EU institutions and inter-service consultation in the process of reviewing SIAs.

- **Integrate SIAs in Trade Policy Review Mechanism (TPRM).** The two-yearly reports of the EU at the WTO for the TPRM should include information derived from the SIAs, such as the social, environmental and economic impact of the EU's trade agreements (WTO, regional, bilateral).

We hope you will find our comments useful and that our concerns will be taken into full consideration during the review of the SIA handbook.

The undersigned NGOs.

Signatories:

Campaign for the Reform of the World Bank – CRBM
Centre for Research on Multinational Corporations – SOMO
Consumer Unity & Trust Society – CUTS International
FERN
Friends of the Earth Europe – FoEE
Greenpeace
International Coalition for Development Action – ICDA
International Federation of Organic Agriculture Movement – IFOAM EU Group
Prague Global Policy Institute – Glopolis
Quaker Council for European Affairs
Roba dell'Altro Mondo Fair Trade
Service Centre for Development Cooperation – KEPA
Solidar
Tradecraft
Women and Development – KULU
Women in Development Europe – WIDE
World Wildlife Fund – WWF