

## Are ACP Civil Society Organisations Genuine Partners in the EPA Negotiation Process? *The ESA Region as a Case Study*

*The Cotonou Agreement, which governs economic and political relations between the African Caribbean and Pacific (ACP) countries and the European Union (EU), legislates for the involvement of non-state actors (NSAs), including Civil Society Organisations (CSOs), in the negotiation of Economic Partnership Agreements (EPAs). EPAs, which are supposed to be reciprocal trade agreements, will probably require ACP countries to open their economies to the EU, their largest trading partner, to a greater extent than ever before. CSOs have a very important role to play in helping to identify the strengths and weaknesses of the ACP economies, so that decisions can be made as to which sectors are to be opened to greater competition with the EU and what period of time they need to prepare for these reforms. However, CSOs are struggling to play this role due to their lack of awareness on the issues surrounding EPAs and a severe scarcity of the necessary resources and human capacity required in order to play an active role in the negotiations.*

*Further, the monitoring processes that are meant to ensure their involvement are not functioning properly due to insufficient resources and political will from some ACP states in making CSOs active partners. For CSOs to become active partners in the EPAs negotiation process, they need to inform themselves of their rights under Cotonou to participate in the EPA negotiations, so that they can hold their governments and institutions to the commitments they have made to consult with them on EPAs. ACP states and the EU need to provide more resources to CSOs and show greater political will to include them in both the national and regional consultations that should take place during the EPA negotiation process.*

### **CSOs: Who and what are they?**

CSOs have received prominence in political and developmental discourse over the last couple of decades following the wave of democratisation in Latin America and Eastern Europe. They have played a very important role in these regions in connecting the people to government and empowering them to advocate their concerns.

Definitions of CSOs are very diverse, but commonly take the view that these include any voluntarily formed group that acts as an intermediary between the state, on the one hand, and the basic building blocs of society (individuals and families) on the other. This paper will additionally assume that CSOs are non-profit-making organisations, which therefore excludes private sector profit-making enterprises and organisations representing private sector enterprises, like chambers of commerce.<sup>1</sup>

### **CSOs and International Trade Negotiations**

CSOs have shown an increasing desire over the last decade to play a role in the decision making processes that underpin international trade, inspired by a perception that people's rights are not being given enough recognition in the negotiation of international trade agreements. This was perhaps most vividly illustrated by the Seattle WTO (World Trade Organisation) Ministerial in 1999, during which protests by CSOs were intense.

### **Article V: 2 of the Marrakesh Agreement**

The General Council may make appropriate arrangements for consultation and cooperation with non-governmental organisations concerned with matters related to those of the WTO.

The case for CSO involvement in an area such as international trade negotiation has been supported by a growing body of literature highlighting the importance of their participation in the goals of development and poverty reduction that trade agreements often aspire to. This literature highlights a number of key avenues through which CSOs play this vital role.

Firstly, they play a significant role in helping to incorporate trade policy into a developmental framework.

The linkages between trade, development and poverty are very complex and work through a variety of sectors and economic groups. The majority of poor in developing countries live in rural areas and depend on agriculture for their livelihoods. As a result, the impact that trade policy will have on poverty depends to a large extent on how it influences the agricultural sector.<sup>2</sup>

Trade policy affects wages and employment in industry and different trade policies will have different effects on wages and employment for diverse groups. For example, it

has been found that following liberalisation<sup>3</sup>, skilled wages often increase relative to unskilled wages.

Trade policy also has a significant impact on government revenues and as a result also on government spending. These changes will effect different groups in different ways.<sup>4</sup>

Because trade policy has such complex transmission channels in relation to poverty and development, it is important for countries to have as much information as possible relating to the various sectors of their economy. But, governments in developing countries frequently lack the capacity to carry out detailed analysis of their economies and the influence trade agreements will have on them. CSOs, often represent a wide range of societal groups and can, therefore, provide an important channel of information about these groups through which they can help inform trade policy decisions in the interest of development and poverty reduction.<sup>5</sup>

Secondly, the involvement of CSOs makes trade negotiation processes more democratic, participatory and equitable.

It is widely recognised that politically and economically powerful groups, especially in the context of developing countries<sup>6</sup> economic policy-making processes can capture economic policy-making processes. This results in policy favouring these groups at the expense of politically and economically marginalised groups which have little access to policy-making processes.

Trade policy is no different, as it relates to diverse groups in dissimilar ways and those with influence can gain access to the process and thereby skew policy in their favour. In order for trade policy to reflect the concerns of all, there needs to be a level playing field in terms of the influence that the various groups have over the process.

Many of the groups which CSOs represent are made up of politically marginalised and impoverished people with a wide range of concerns. The involvement of CSOs in these processes, therefore, ensures that the voices of these groups are heard and incorporated into the negotiating positions that are taken.

Thirdly, CSOs play an important role in putting agreements into operation.

Many developing country states are incapacitated and CSOs play a vital role in providing public services to their inhabitants. CSOs, for that reason, need to be involved in the implementation process to enlist wide-spread take-up and support for agreements.

Nevertheless, it should be noted that involving CSOs as service providers in partnership with the government can often reduce the freedom with which they can challenge the government in support of particular interests.

International institutions are slowly responding to the call to provide greater CSO participation in their decision-making processes. In reviewing the way forward for the UN, the Cardoso Report recommended that the UN should consult more intensively with CSOs. The World Bank also encourages CSO involvement in the drawing up of Poverty Reduction Strategy Papers (PRSPs) in relation to structural adjustment programmes (SAPs). Yet, there is still a long way to go to make these policy processes truly participatory.<sup>7</sup>

### **Cotonou and CSOs**

It was, thus, not surprising that the Cotonou Agreement, the successor to the Lome Convention that had governed economic and political relations between the ACP countries and the EU, expressed the rights of CSOs to play an integral

part in its operation. This is firmly enshrined in article 4 of the Agreement, which states that NSAs, which include private sector enterprises as well as CSOs, should be partners in Cotonou cooperation, as stated below:

| <b>Cotonou Agreement – Article IV</b>   |
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| <p>The ACP states shall determine the development principles, strategies and models of their economies and societies in all sovereignty. They shall establish, with the community, the cooperation programmes provided for under this Agreement. However, the parties recognise the complementary role of and potential for contributions by NSAs to the development process. To this end, under the conditions laid down in this Agreement, NSAs shall, wherever appropriate:</p> <ul style="list-style-type: none"><li>● be informed and involved in consultation on cooperation policies and strategies, on priorities for cooperation, especially in areas that concern or directly affect them, and on the political dialogue;</li><li>● be provided with financial resources, under the conditions laid down in this Agreement in order to support local development processes;</li><li>● be involved in the implementation of cooperation projects and programmes in areas that concern them or where these actors have a comparative advantage; and</li><li>● be provided with capacity-building support in critical areas, in order to reinforce the capabilities of these actors, particularly as regards organisation and representation, and the establishment of consultation mechanisms including channels of communication and dialogue, and to promote strategic alliances.</li></ul> |

Cotonou, then, clearly states that NSAs should be involved and consulted in areas of cooperation that concern or directly affect them and that they should be given the resources to enable them to take on this role. Amongst NSAs, CSOs have an important role to play in Cotonou cooperation as they often represent marginalised groups, such as farm labourers, formal and informal workers and women's groups, which are not represented by private sector organisations.

### **EPAs and CSOs in theory**

The trade arm of Cotonou consists of EPAs that are currently being negotiated between the various ACP regions and the EU. These EPAs are due to come into operation at the beginning of 2008, and could require ACP countries to provide some degree of reciprocal access to EU imports in return for maintaining and increasing the preferential access they enjoyed under the Lome Convention.

Through EPAs, the ACP countries might be exposing their economies to the exports of the EU, one of their most important trading partners, to a greater extent than ever before. The impacts of these agreements could be wide-ranging and affect NSA stakeholders significantly. This, hence, mandates their involvement in the EPA negotiation process as per the requirements of Article 4 of the Cotonou Agreement.

In negotiating these EPAs, the ACP countries have a very difficult task ahead of them in deciding which sectors to expose to competition with the EU and what period they will need to prepare for such a competitive environment. NSAs, accordingly, have a vital role to play in informing

these decisions by providing insights into how the various sectors of the economy might be affected by EPAs.

The importance of NSAs to the EPA negotiation process has been accepted in principle, as can be seen by the procedures that have been recommended to ensure their involvement. Each of the ACP countries has been advised by the EU to set up a National Development and Trade Policy Forum (NDTPF), which would consist of representatives from governmental bodies and from a wide range of NSAs, including CSOs, whose role is to draw up a national position on EPAs. The NDTPF is supposed to provide the structure through which the national position can be developed through a thorough process of consultation. Representatives from the NDTPF together with a number of other officials, then present these positions to the Regional Negotiating Forums (RNF) at which negotiations relating to regional integration and discussions with the EU take place. At each RNF meeting, NDTPF representatives are mandated to present reports detailing the progress of the NDTPF consultation process.

Cotonou states that it is the collective responsibility of both the EU and the ACP countries to ensure effective NSA involvement in Cotonou cooperation activities, such as EPA negotiations. Be that as it may be, the EU is keen to play mainly a financing, consultative and monitoring role with regard to NSA involvement, with ACP countries playing the main role in deciding which NSAs to include in the process.<sup>8</sup> This responsibility has been mandated to the National Authorising Officer (NAO) of each ACP country, a senior government official appointed to represent it in all the operations financed by European Development Fund. The NAO works in close collaboration with the head of the EC delegation on preparing and appraising projects and programmes. The NAO is also responsible for the tendering of contracts, authorising expenses and making the necessary adaptations to ensure proper execution of programmes. With much of the resources for NSA involvement in EPA negotiations coming from the EU, the NAO is effectively in charge of deciding which NSAs are involved in the process.

### EPAs and CSOs in practice

In practice, however, active CSO involvement has been limited up until now, threatening the level of accountability and openness inherent in the negotiation process. These problems have been prevalent at all levels of the process. There is a severe lack of awareness of the issues relating to EPAs amongst civil society at the grassroots level. CSOs, therefore, have a lot of work to do to raise awareness on the ways in which EPAs might affect the different sectors of civil society, so that they can communicate their concerns. However, at the national level, CSOs are struggling to play this role as they lack the resources to do so. For example, in Zambia there are only a few CSOs, CUTS Africa Resource Centre and the Civil Society Trade Network of Zambia, working to increase awareness of EPA issues amongst civil society. In a country of over 10 million people this displays a severe lack of capacity and threatens to marginalise civil society's voice in the process of consultation and negotiation surrounding EPAs.

CSOs have found it difficult to find the resources to play an active part in the consultation processes organised by their respective NDTPFs. It is an all-too-common

### Box 1: Eastern and Southern Africa EPA Negotiation Timetable

- **Phase I - Setting Priorities:** will establish the general framework for negotiations and a tentative list of priorities for negotiations (March-August 2004).
- **Phase II - Substantive Negotiations:** will involve substantive negotiations on all issues relevant to EPAs and will be prepared by ambassadors and senior officials in July 2004 (September 2004-December 2005); and
- **Phase III Continuation and Finalisation:** will see substantive negotiations continued to a conclusion, with disagreements being ironed out and compromises reached. (January 2006-December 2007).

Each party is to enact the necessary legislation for the new EPAs to enter into force on January 1, 2008.

occurrence for attendance by CSOs at consultation and awareness raising workshops to be disappointing, as many lack sufficient resources to devote to these activities because of the numerous demands on their minimal budgets. For example, it was noted at the first Eastern and Southern Africa (ESA) RNF meeting in April 2004, that many of the NDTPFs had not been properly constituted or were at various stages of formation. This situation had not changed significantly by the second ESA RNF meeting in July 2004.

Part of the reason for this lack of capacity amongst CSOs is that only a limited amount of resources have been set aside to support NSA capacity building efforts in the Country Support Strategies (CSS). This is possibly due to the lack of CSO involvement in the drawing up of Country Strategy Papers.<sup>9</sup> This limited funding has also not been terribly effective in supporting CSO engagement as many CSOs have found it difficult to access these resources. This is because they often have little knowledge of what funding is available and of the necessary application procedures to gain access to it.<sup>10</sup>

Another problem has been the failure of the monitoring processes that are seen as an integral part of the operation of the NDTPFs of the various ACP countries. At the first ESA RNF meeting, all NDTPF representatives failed to submit written reports assessing the involvement of NSAs in consultation processes. Instead, only verbal country briefings without any substantial data were submitted. This problem has made the monitoring and accountability process with regard to NSA involvement difficult, as these reports are untraceable and undocumented.

Although CSOs have gained reasonable access to the consultation process at the national level, but at the regional level only one CSO, SEATINI, has been given access and speaking rights at RNF meetings. This is of significant concern as it is at the regional level where the actual negotiations take place and it is important for CSOs to be represented so that they can monitor the regional integration process and feedback this information to their stakeholders.

CSOs are also finding it difficult to procure the information they require to effectively monitor the process. EPA negotiations often take place behind closed doors and those who do not have access to these negotiations have found it difficult to gather detailed information on its progress. This lack of transparency has been displayed not only by ACP negotiators and regional secretariat officials, but also by EU officials as well. EU NGOs have also found it very difficult to monitor negotiations with

the EU, displaying an alarming lack of transparency in their mute responses to requests for information from EU NGOs.

Another problem that CSOs have been facing is in relation to the fact that Cotonou is a multi-faceted cooperation agreement incorporating trade, aid and political issues. This means that there are often a multitude of government ministries involved in EPA negotiations and it is difficult for CSOs to keep a track of who is making the decisions. This has made it difficult for them to target their lobbying activities in an effective way.<sup>11</sup>

## Conclusion

CSOs are, therefore, faced with significant challenges in playing an active part in the EPA negotiation process due to lack of resources and the problems they have had in accessing formal channels of influence and in getting information relating to the negotiation process. How can CSOs best tackle these problems in an attempt to make sure their voices are heard loud and clear?

Firstly, making efforts to gain access to the institutions that facilitate CSO involvement, specifically the NDTPF, CSOs need to make sure that ACP and EU institutions that are responsible for involving CSOs on Cotonou matters are fulfilling their obligations.

It is, therefore, important that CSOs have good links with their respective NAOs and the representatives of their NDTPF. This is so that they can monitor their activities and ensure that they are doing their utmost to provide CSOs with opportunities for active involvement and information relating to the negotiation process. They also need to hold their NDTPFs accountable to their obligation to provide written reports of NSA involvement in EPA negotiations so that the process can be monitored more closely.

CSOs that are finding their NAOs and NDTPFs unresponsive to their demands. Thus they could also take up their case with their regional secretariats and encourage them to provide a further level of accountability to process.

Secondly, CSOs need to combat their lack of resources by ensuring that they make strategic and well-thought out decisions about where to focus their activities in relation to EPA negotiations.

In order to do this, CSOs need to gain as much information as possible as to who the decision-makers are and think strategically about what steps to take to engage with them more effectively.

One strategy they can employ is to develop networks of CSOs that can work together to influence the process. This will hopefully allow information to be shared quickly and more widely amongst CSOs and ensure that they work together in a complimentary way. The inclusion in these coalitions of EU CSOs which are committed to taking forward their concerns is also vital as it allows lobbying activities at the ACP level to be coordinated with those taking place at EU level.

A number of networks of CSOs working together on EPAs have developed in the last few years. One such network is a coalition of ACP and EU CSOs that have mobilised under the banner of the STOP EPA campaign. This coalition is attempting to change the direction of EPAs by lobbying the EU and its member states with the message that EPAs, as they are currently envisaged, will be detrimental to the development prospects of the ACP countries. Another such network is the Eastern and Southern African Non-state Actors Forum (ESANAF), a group of NSAs, including many CSOs, working together to influence the EPA negotiation process in the ESA region. ESANAF is being led by CUTS' Lusaka office and is presently working to strengthen this coalition in order to play an active part in the substantive stage of ESA-EPA negotiations that started in September 2004.

Thirdly, CSOs need to carry out work that will provide significant value addition to the negotiation process so as to make a stronger case for their involvement.

One area in which they can provide an important contribution is in carrying out work relating to the potential impact of an EPA on the specific sectors of their economies. So far, sector specific impact assessments have not been carried out widely in ACP countries.<sup>12</sup> By carrying out this research at the grassroots level, CSOs can display their importance to the process by empowering their negotiators to make informed decisions in negotiating EPAs.

Fourthly, CSOs need to take part in Cotonou review processes and the development of country support strategies.

This is important, as it will allow CSOs to advocate their need for resources from National Indicative Programmes to support their capacity needs.

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## Endnotes

- 1 "Civil Society and Governance", Institute for Development Studies, concept paper
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- 3 Ibid
- 4 Ibid
- 5 "Mapping trade policy: Understanding the challenges of civil society participation", IDS Working Paper 225, K.Brock, R.Magee, 2004
- 6 For example, with regard to agricultural policy see ideas on urban bias by Lipton ("Why poor people stay poor: A study of urban bias in world development", 1977) and influence of class by Byres ("Agrarian structure, the new technology and class action in India", 1981)
- 7 "Civil society networks in global governance: Remediating the World Trade Organisations deviance from world norms", Peter Willetts in Griffiths/Thurston edition of "Free and fair: Making the progressive case for removing trade barriers"
- 8 ECDPM Cotonou Infokit, Chapter 9, 2001
- 9 "Rapid survey of 40 ACP Country Support Strategies", APRODEV
- 10 "A qualitative desk study on the country support strategies, non state actor funding and the capacity of EU delegations", One World Action, 2004
- 11 See footnote 4
- 12 EPA shadow newsletter No 1, [www.epawatch.net](http://www.epawatch.net)

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