

FROM COMESA-EAC-SADC TO TFTA

INTEGRATING THE VOICE OF THE CIVIL
SOCIETY IN EASTERN AND SOUTHERN AFRICA



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International

From COMESA-EAC-SADC to TFTA
*Integrating the Voice of the Civil Society in
Eastern and Southern Africa*

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Acronyms

| | |
|---------|---|
| ASCCI: | Association of SADC Chambers of Commerce and Industry |
| CBC: | COMESA Business Council |
| CDF: | Consultative Dialogue Framework |
| CFTA: | Continental Free Trade Area |
| CNGOs: | Council for Non-governmental Organisations |
| CSO: | Civil Society Organisation |
| EABC: | East African Business Council |
| EAC: | East African Community |
| EACSO: | East African Community CSOs' Forum |
| ESA: | Eastern and Southern Africa |
| EA: | European Union |
| FTA: | Free Trade Area |
| GDP: | Gross Domestic Product |
| GNRD: | Global Network for Rights and Development |
| IVORI: | Integrating the Voice of Civil Society Organisation in Regional Integration |
| MoU: | Memorandum of Understanding |
| NGOs: | Non-government Organisations |
| PSOs: | Private Sector Organisations |
| SADC: | Southern Africa Development Community |
| SNC: | SADC National Contact |
| TFTA: | Tripartite Free Trade Area |
| TRAPCA: | Trade Policy Training Centre in Africa |

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We are grateful to all who provided insights during interviews at the COMESA, East African Community (EAC), Southern Africa Development Community (SADC) and Tripartite Free Trade Area (TFTA) Secretariats and all other regional and inter-governmental organisations.

We would also like to thank CUTS Lusaka project team as well as CUTS Nairobi team for their financial support.

Preface

Tripartite Free Trade Area (TFTA) was officially launched in 2015 to bring 26 African countries from Cairo to Cape Town under one market. While, the grand initiative is noble and in line with the Abuja Treaty that envisages for one African Economic Community, the integration process will have to incorporate the voices of the marginalised as represented by Civil Society Organisations (CSOs) and other Non-state Actors (NSAs) for deep and meaningful integration.

African regional economic communities are, most often than not, perceived as elitist and government-to-government cooperation, partly because of lack of participation from citizens of Member States. For decades, CUTS has been championing for change in approach where regional integration and trade policy making processes ought to be owned by all for better social and economic benefits.

With the aim of giving voice to the voiceless in the TFTA integration process, CUTS Nairobi implemented the 'Integrating the Voice of CSOs in Regional Integration Process in Eastern and Southern Africa' (IVORI-ESA) project in Ethiopia, Kenya and Zambia in 2015. Research studies were successfully carried out in the three countries and three regional economic communities (RECs).

A forward looking 'Engagement Framework and Action Agenda' for Eastern and Southern African CSOs' engagement on the TFTA negotiations and implementation processes has been developed under the project. An e-forum, the Eastern and Southern Africa CSOs' Network on Integration and Development (ESACSONID) has also been formed as a discussion and information dissemination platform on regional integration, multilateral trade issues and other trade matters.

This research publication presents the state of non-state actors', particularly CSOs' engagement in in the Common Market for Eastern and Southern Africa (COMESA), East African Community (EAC); Southern Africa Development Community (SADC); and the ongoing TFTA initiative. I believe such documentation can serve as a baseline for upcoming interventions and studies.

It is my expectation that the findings of 'From COMESA-EAC-SADC to TFTA: *Integrating the Voice of the Civil Society in Eastern and Southern Africa*' will generate further dialogue within national trade and regional integration forums; prompt governments for an institutionalised and well financed engagement of the civil society in matters of trade; as well as guide the donor community on resource and skills gaps.

Let me conclude by expressing my sincere thanks to all who have been involved in the project, including Oxfam Novib for the financial support, IVORI-ESA partner organisations in the three countries and all national and regional stakeholders for their insights during interviews and project workshops. We at CUTS continue to strive to achieve social justice and economic equality within and across borders.

Pradeep S Mehta
Secretary General, CUTS International

Executive Summary

The Abuja Treaty that established the African Economic Community (1994) comprises a detailed roadmap for Africa's economic integration. In accordance with this roadmap, so far, transnational economic integration in Africa has mainly taken place at the level of RECs as building blocks towards the larger continental economic integration.

The TFTA is an inter-REC integration initiative, launched independently of the framework of the African Union, but readily embraced by it as a decisive step forward that could bridge the gap between regional and continental integration efforts, and encourage the establishment of a Continental Free Trade Area (CFTA).

Trade policy making and implementation at national, regional and multilateral-level within the context of the larger development policy, through a consultative process involving all the stakeholders, and tailoring domestic trade policy to the international trade policy regime is crucial to maximise opportunities. Hence, the importance of a comprehensive, well crafted, and effectively implemented national, regional and multilateral trade regime.

After assessing the crucial roles, CSOs and NSAs could play in regional integration process; and the levels of engagement put in place in the EAC, COMESA, SADC, and the TFTA process, this study concludes that while despite potential valuable inputs from CSOs, the TFTA process and COMESA have not appreciated such inputs. Whereas SADC and EAC not only have clear provisions in the treaty guaranteeing CSO participation, but also have set up institutional structures or platforms for engagement.

Further, it has been observed that that the vertical relationship between national CSOs and those representing them at regional-level, in some cases is bleak. The study has established that some of the regional consortiums have limited technical capacity to knowledgeably push for the necessary policy and practical changes. The lack of participation of vast populations is a weakness that would threaten the legitimacy of regional civil society until it is rectified.

Introduction

On June 10, 2015, the Heads of State from 26 African countries signed a historic agreement to officially launch a TFTA that will integrate the members of three African RECs, namely COMESA, SADC and EAC. It has the overarching objective of accelerating economic integration and achieving sustainable economic development in the region. Comprehensive implementation of the TFTA will expand and facilitate market access for the about 625mn people in the region that make up more than half of the total African population and half of the African Union (AU) membership.

The Abuja Treaty that established the African Economic Community (1994) holds a detailed roadmap for Africa's economic integration. In accordance with this roadmap, until now, transnational economic integration in Africa has mainly taken place at the level of RECs as building blocks towards the larger continental economic integration. The AU recognises eight RECs, albeit their overlapping memberships as pillars of Africa's economic integration.

In accordance with the schedule set out in the Abuja Treaty, integration should start shifting gear towards the continental-level, with a view to the completion of the continental customs union by the indicative date of 2019. The TFTA is an inter-REC integration initiative, launched independently of the framework of the African Union, but readily embraced by it as a decisive step forward that could bridge the gap between regional and continental integration efforts, and encourage the establishment of a CFTA.

Among the specific objectives of the TFTA include elimination of all tariffs and non-tariff barriers to trade in goods. Promotion of trade in services is also included, but this would follow a more lagged approach, based on definition and identification of priority sectors for liberalisation and putting in place a progressive services liberalisation programme.

Other objectives identified in the revised draft agreement go beyond trade, in the strict sense of the term, to include promotion of investment and mobility of business people (including foreign nationals residing in a TFTA member state), cooperation on infrastructure development, promotion of an equitable society and of social justice. The TFTA will also put in place an institutional structure. Its implementation will be overseen by a Tripartite Committee and Sub-Committees on Trade and Customs, at ministerial, senior officials' and technical experts' level.

Greater integration into the regional, continental and multilateral trading system through freer trade increases the speed at which shocks can be transmitted to the domestic economy where poor and marginalised sections often lack means to withstand

such shocks. This is not an argument against trade. Rather, it brings home the importance of trade policy making and implementation at national, regional and multilateral-level within the context of the larger development policy. This is done through a consultative process involving all the stakeholders, and tailoring domestic trade policy to the international trade policy regime in such a way that the opportunities are maximised. Hence, a comprehensive, well crafted, and effectively implemented national, regional and multilateral trade regime is important.

This report, therefore, makes an assessment of the level and platforms of involvement of CSOs and other NSAs in COMESA, SADC, EAC and TFTA processes.

Significance of Inclusive Trade Policy Making

The remit of modern day trade policy is no more limited to the so-called ‘border measures’¹. Also included in the purview of international trade agreements that provide the boundaries and framework for regional trade policies are issues related to industrial, science and technology, investment, competition, education, health etc. Further, their impact can be felt by diverse stakeholder groups, such as businesses, consumers, farmers, industrialists, innovators, labour and women. Hence, the need for multi-stakeholder consultations and inclusive regional trade policy making and implementation processes has been realised. Inclusive trade policy making processes can significantly contribute to the empowering of people and persuade governments to develop and implement policies that use trade as a means to pursue economic equity and social justice².

Participating member states in RECs are conscious of the need to improve inclusiveness of trade policy making. Given the scope of trade policy measures and commitments under regional and international trade agreements, the number of relevant stakeholders is quite large. These can be divided into four broad categories based on their mandates and roles. These are:

| Institution/Ministry | Specific Role |
|---|---|
| RECs and member countries though specific ministries working on trade | To develop and monitor the implementation of regional, national trade policy |
| Other national government ministries and agencies | To provide specialised inputs to trade policy makers and or are responsible for the implementation of trade policy measures both at national and regional-level. |
| Private sector | To provide input to the policy formulation process on key trade priority areas. To adhere and operate within the parameters set by the trade policy (both national and regional). |
| CSOs/Non-government Organisations (NGOs) and research institutions | To transport interests/views interests of other segments of the population to the policy makers through their grassroots linkages, advocacy and research |

The claim for participation of each of the groups of stakeholders is based either on a formal mandate, direct impact of trade policy measures on the group (private sector), or

¹ Inclusiveness of Trade Policy-Making: Challenges and Possible Responses for Better Stakeholder Participation: Commonwealth trade hot topics: Rashid S Kaukab

² Ibid

presentation of interests that are not otherwise directly represented (CSOs)³. Formal nature and direct relevance of this claim has a strong influence on the opportunities for participation in formal consultative mechanisms. The following section, therefore, explores the existence of both formal and informal mechanism of engagement in the TFTA process.

³ Supra note 2

Inclusive and Equitable Participation in the Tripartite Process

Understanding the level and state of inclusivity in the TFTA process requires a vertical appraisal of the participatory framework that exists in the three founding RECs of the TFTA. Notwithstanding the role that national processes play in informing regional and multilateral processes, this section focusses on participatory and consultative mechanisms at COMESA, EAC and SADC and TFTA level.

Engagement of CSO and NSAs in COMESA regional integration process

The COMESA was established by Treaty in 1994, with the goal of being a fully integrated, internationally competitive regional economic community with high standards of living for its entire people ready to merge into an African Economic Community⁴. COMESA is the largest of the eight RECs recognised by the AU, bringing together 19 member states with a total population of 450mn people (almost half the population of Africa), and a combined Gross Domestic Product (GDP) of over US\$570bn (2012).

Specifically, by 2025, COMESA plans to be a single trade and investment area in which tariffs, non-tariffs and other impediments to the movement of goods, services, capital and people will be removed, while trade in goods and services from the region will have achieved global market competitiveness. The region also expects per capita income to double and poverty to decrease by 30 percent credited to a steady expansion of the regional economy.

In contrast with the other two RECs, COMESA has no framework of engagement with CSO and participation of CSOs and other NSAs has been almost non-existent. Emphasis is placed on private sector participation. A number of Articles are provided for in the treaty that guarantees private sector participation. Chapter 23 focusses on issues that hinge on private sector development. Specifically, Article 151 enumerates key preconditions for reforms required to create an enabling environment for the private sector.

Paragraph (a) of Article 151 emphasises the need for the COMESA Secretariat and Member governments to promote a continuous dialogue with the private sector organs at the national and regional-levels to help create an improved business environment for the implementation of agreed decisions in all economic sectors. Moreover, paragraph

⁴ See Article 3 of the Treaty

(b) of the same article call for COMESA and its member states to provide an opportunity for entrepreneurs to participate actively in improving the policies, regulations and institutions that affect them so as to increase confidence in policy reforms, raise productivity and lower costs at enterprise-level.

Further, Article 152 gives express provisions which focus on strengthening the Private Sector. Paragraph (a) encourages the efficient use of scarce resources, infrastructural and programme growth of private or business sector organisations, which are engaged in all types of economic activity. These include the Chambers of Commerce, Confederation and Associations of Industry, agriculture, manufacturers, farmers, external trade, commodities, services, professional development groups and others.

The TFTA unit at COMESA in an interview suggested that CSOs could be engaged on the basis of Article 153, which deals with co-operation with Chambers of Commerce and other business organisations. However, it would be naïve to suggest that this Article could be sufficient to legally guarantee CSO's participation on regional integration matters related to trade. These are vague provisions, which could be subjected to interpretation ambiguities.

However, it is also imperative to note that there are exceptional and dotted cases of CSO engagement, especially through the COMESA Business Council (CBC) – despite being a private sector platform. For example, active participation of NSAs in the CBC has seen them develop a position on the rules of origin and the movement of business persons. Despite this development, improving the participation opportunities for CSOs is essential. It will be fair to accord as much as possible similar opportunities to all groups of stakeholders. For example, CSOs should be accorded similar access to various consultative mechanisms as is given to the private.

Through various programmes, COMESA has also found ways of issue-specific engagements with CSOs in the region. For example, there is a COMESA civil society and private sector engagement for the Peace and Security Programme. A set of rules and procedures for accrediting CSOs to the Programme, which were drafted by representatives of all stakeholders including national governments, was developed. The rules and procedures enable CSO that are accredited to the Programme to actually have opportunity to dialogue with governments and to play a role within the COMESA.

So far, COMESA has accredited 14 organisations from six countries where national consultations have been held and for Zambia. These include Africa Internally Displaced Persons Voice, the Southern Africa Centre for the Constructive Resolution of Disputes; and, Network of Africa Peace Builders.

Further, COMESA in January 2015, signed a Memorandum of Understanding (MoU) with the Global Network for Rights and Development (GNRD)⁵. The MoU aims among other things to strengthen cooperation between the two parties to facilitate the development and integration agenda of the COMESA. More specifically, this MOU aims to foster COMESA plans and activities in building and strengthening the capacity of CSOs,

Private Sector Organisations (PSOs) and COMESA Parliamentarian Forum in areas of human rights and electoral processes aimed at bringing and promoting democracy and good governance, peace and security in the region, through training research and policy advocacy and implementation. The partnership will also aim at building capacity to non-state actors to fully participate in electoral process. It is envisaged that this will enhance the culture of human rights and electoral processes will enhance peace and security in the region as a catalyst to regional integration and increase trade.

Whereas trade requires a peaceful and predictable environment, defining the trade agenda requires a well-defined engagement framework for CSOs. Upon pressure and criticism from various stakeholders, including the major funder of COMESA programmes – the European Union (EU), on the dismal participation of CSOs in the regional integration process, pressure continues to mount on COMESA to facilitate greater national ownership as central to effective integration. COMESA's visibility to ordinary citizens in the region is limited, with citizens and their political leaders having less clarity about what there is to gain or lose from further integration and need of having an institutionalised framework.

Engagement of CSO and NSAs in the EAC regional integration process

The EAC was first formed in 1967 as 'Cooperation' but due to differences in ideology and inequitable distribution of benefits, it was officially dissolved in 1977. Kenya, Uganda and Tanzania later agreed on the Treaty for the reestablishment of the EAC, which came into force in 2000 to pursue cooperation among Partner States in political, economic, social and cultural fields, research and technology, defence, security and legal and judicial affairs for their mutual benefit.

The Treaty provides for the establishment of a Customs Union, a Common Market, and subsequently a Monetary Union and ultimately a Political Federation. Currently, the EAC regional integration serves as a Common Market among Burundi, Kenya, Rwanda, Tanzania and Uganda. The Partner States signed the Monetary Union Protocol in 2013, which has given Member States 10 years to put in place the necessary institutions and mechanisms and implement activities to achieve the East African common currency area.

⁵ Memorandum of Understanding between COMESA and GNRD – See <http://gnrd.net/seemore.php?id=1307#sthash.XJuj6Bpa.dpuf>

Efforts, although with challenges, have been, underway to involve NSAs, both CSOs and the private sector, in the EAC integration process facilitated by a dialogue framework. The Consultative Dialogue Framework (CDF) for private sector and CSOs participation was adopted by the Council of Ministers in November 2012.

CDF is a step towards operationalisation of the provisions of Article 127 of the Treaty Establishing the EAC. The Treaty requires that the integration process is both people-centred and private-sector driven, ensuring that integration is undertaken with the full participation of the people of East Africa.

Towards this end, it calls for the involvement of the private sector and civil society in all aspects of the integration processes. The inclusion of both the private sector and civil society is also based on lessons learnt from the original EAC, whose collapse was partly attributed to the non-involvement of these key stakeholders and the wider citizenry of East Africa.

The Secretary General, under Article 127(4) of the Treaty is mandated to provide the forum for consultations between the private sector, CSOs, other interest groups and appropriate institutions of the Community. Article 129 (2), on the other hand requests the Council to establish modalities that would enable the business organisations or associations, professional bodies and the civil society in the Partner States to contribute effectively to the development of the Community – hence, the CDF. Rules of Procedure to guide the participation of the private sector, civil society and other interest groups in the integration process are also in place in the CDF.

Regional dialogue takes place through several avenues. In the first instance, it enables organisations to attend meetings of EAC based on an annual calendar of activities. The Secretary General of EAC is required to share the calendar at the beginning of every year with regional apex bodies, so that their members are aware of dates for particular activities to enable them plan to attend and participate in such meetings. The only consideration will be adherence to the rules of observer status for attendance inside the meetings, but it is possible to informally influence events even at the side-lines of formal meetings.

The second avenue for engagement is thematic meetings organised by the EAC Secretariat for various sectors. These include the Media Summit, the Women in Business, The CEO's forum and the investment forum amongst others. These provide opportunity for participants from those sectors to have candid discussions with the EAC and hence contribute to the integration process.

The main avenue for engagement created by the CDF is the Secretary General's forum. This is an annual meeting convened by the Secretary General of the EAC based on an

agenda prepared in advance by a Regional Dialogue Committee consisting of representatives of all the dialogue parties.

The meetings take place once a year and rotate across all the Partner States. The meeting provides a forum for frank exchange of views on a particular aspect of the EAC integration. It eventually comes up with recommendations for consideration and implementation either by the dialogue parties or organs and institutions of the Community.

Further, it is the responsibility of the Secretary General to forward relevant recommendations to the EAC organs for their further action. The parties to the dialogue have adopted Rules of Procedure dealing with issues about quorum, decision making, chairing of meetings and related issues to guide deliberations. The principles of the dialogue focus on exchange of views in a respectful atmosphere, consultation and mutual trust and based on clear evidences and not on rumours and innuendos. It appreciates that the parties might have different perspectives but must always engage with an eye on furthering the integration process.

Stakeholder consultations were also conducted with other select institutions focussing on trade issues at the regional-level. Institutions consulted include the following:

- a) The Trade Policy Training Centre in Africa (TRAPCA), an institute with a mandate to build and enhance capacity in trade policy matters in least-developed and other developing countries in Sub-Saharan Africa.
- b) East African Community CSOs Forum (EACSOFF), registered in Tanzania as a regional NGO with its head office in Arusha. EACSOFF is the umbrella organisation of CSOs in the East African region, founded in 2007. It is a space for shared learning and collective action, in pursuit of Article 127 of the Treaty for the establishment of the EAC.
- c) EAC Secretariat.
- d) East African Business Council (EABC), the apex body of business associations of the private sector and Corporates from the five EACs. It was established in 1997 to foster the interests of the private sector in the integration process of the East African Community.

Findings from these consultations generally show a lot of challenges as far as CSOs and other non-state actors' participation in trade issues at regional-level is concerned. Compared to the private sector, which is directly affected by the policies and have better analysis of policy impact, CSOs are engaged by the government less often. Influential corporates are often easier to be heard, as these can even have access to national head of States.

However, participation is challenged by the differences in sizes among the business players, which also results in different interests. Big companies were concerned usually

with location of production, tariffs and non-tariff barriers while small and medium enterprises are usually concerned with trade facilitation issues. This makes it difficult for business to speak with one voice.

Other interviewees are of a view that awareness and knowledge on EAC was improving as many were looking for opportunities within the EAC. It was felt that people were integrating more today compared to 10 years ago. Further, it was also revealed that there were people who still think EAC has no direct impact on their lives since they do not see/feel the benefit. However, business persons and professionals as well as students are very keen in following up the progress as these are the most affected by regional integration. Further, in Tanzania, the government is taking an initiative to include regional integration in the curriculum. A similar initiative is being undertaken by Kenya.

Questions also hinged on understating whether the CDF was working or not. There were varying responses but cumulatively they felt that the CDF was working compared to other regions. The need therefore for national partners to make deliberate efforts to institutionalise the CDF was mooted. The need to institutionalise the process in terms of indicating in the annual calendar of events as well as allocating funds was proposed. Sustainability challenges owing to limited resources and the need for members' states to commit towards funding this process was highlighted.

Engagement of CSO and NSAs in SADC regional integration process

In 1992, the Heads of State and Governments of the SADC signed the SADC Treaty and a Declaration to establish SADC to achieve its mission “to promote sustainable and equitable economic growth and socio-economic development through efficient productive systems, deeper cooperation and integration, good governance, and durable peace and security, so that the region emerges as a competitive and effective player in international relations and the world economy”.

The SADC Protocol on Trade was signed in 1996 and it has been in effect since 2000. In 2008, some member states formed the SADC Free Trade Area. Under the SADC Protocol on Trade, a Trade Negotiation Forum has been established and it is responsible for the conduct of trade negotiations, monitoring the effects of trade liberalisation and linking trade liberalisation to regional cooperation in other sectors. The SADC FTA is a step towards deeper regional economic integration, which is one of the key strategy and objectives of SADC.

Article 16A of the SADC Treaty commits SADC member states to engage fully the people of the region and civil society on regional integration and development. Under this Article, each Member State shall create a SADC National Committee, which has to include key stakeholders, which should (a) provide input at the national-level in the

formulation of SADC policies, strategies and programmes of action (b) coordinate and oversee, at the national-level, implementation of SADC programmes of action (c) initiate projects and issue papers as an input to the preparation of the Regional Indicative Strategic Development Plan and (d) create a national steering committee, sub-committees and technical committees.

Therefore, SADC Secretariat has signed a MoU with the SADC Council for NGOs (SADC CNGOs), formed in 1998, with the intention of promoting constructive dialogue and engagement with civil society in regional integration processes. This made it easier for CSOs to address issues of poverty alleviation, democracy, good governance and ending internal political conflicts.

The Council encourages collaboration and partnerships with other stakeholders at both national and regional-level and has continually monitored the performance and accountability of SADC Secretariat and Member States on their national, regional and international commitments.

Efforts have also been made to ensure that CSOs in different SADC countries operate in a coordinated manner through the establishment of a coalition of NGOs at the SADC-level, through which most national umbrella organisations and CSOs are members. Thus at the SADC-level, the framework has already been established for civil society participation in regional integration issues. The SADC Secretariat has thus made efforts in engaging civil society, especially at policy formulation and implementation.

Regional dialogue sessions are held with CSOs, even though this is mostly at the discretion of the Secretariat. However, the engagement is often *ad hoc*, not well coordinated and at the discretion of the Secretariat. Mechanisms at the national-level involve the SADC National Committees and the SADC National Contact (SNC) or Focal Points. However, there are no formally structured engagement processes for civil society engagement outside some MoUs with a few of them.

The Council is cognisant of the many challenges facing civil society that tend to compromise their involvement, participation and contribution to development. The SADC CNGOs notes some of the challenges as being associated with the constraints of regulation and policy, and lack of capacity of CSO at national and regional-level to comprehend with the current trade and regional integration dynamics.

During consultations, the SADC Council of NGOs indicated that there are still a lot of issues that need to be put in place to ensure that CSOs actively participate in trade issues at the regional-level. At the moment, participation it is not yet at a high-level of inclusiveness, as citizens are not aware of what has been happening. Instead the member states have been driving the process through just the inter-governmental mechanisms.

The ordinary citizens are not visible in this process, a process that SADC CNGO is still trying to achieve. There are a few countries that have active CSOs in the trade issues (for example, Zambia, Zimbabwe and South Africa). There are few CSOs working on trade issues, in comparison to those who work on governance and human rights issues. There is, therefore, need to sensitise CSOs on the issues that pertain to trade from community based organisations and grassroots organisations.

The SADC CNGO believes that although dialogue between the civil sector (non-governmental organisations and community based organisations) and the SADC Secretariat exist, this is on *ad hoc* basis and has not been institutionalised. There has been some institutional support for CSOs working on trade, but these have been from other partners and not from the SADC Secretariat. Efforts at the SADC CNGO-level to ensure that there is more interest on trade issues among CSOs in the region are still ongoing. These include 'The SADC We Want Campaign' and CSO forums to discuss different issues affecting the region.

Stakeholder (CSO) Engagement in the Tripartite Processes

The TFTA presents great opportunities for member countries to trade so that their economies can grow through optimal utilisation of the expanded market. Realising this, will require a number of interventions that result in making products and services produced to be more competitive.

However, trade without the rules/tools to govern the conduct of traders could be a menace. Treaties, protocols, conventions etc. are among the tools that determine the conduct and legitimisation of trade. These tools ultimately envisage promotion of democratisation of the trade process. Democracy requires or calls for equitable participation of stakeholders in the development of the tools and strategies that will affect member states.

At the TFTA-level, just like in COMESA, there is no framework of engagement with CSOs that exist. Institutional architecture for private sector players exists though through Tripartite Private Sector Platform – a platform that consist of the COMESA Business Councils (CBC), the East African Business Council (EABC) and the Association of SADC Chambers of Commerce and Industry (ASCCI). This platform is seen as a key step forward in providing a platform for networking and fostering new relationships for business and advocacy purposes.

The SADC CNGO believes that non-state actors were generally not consulted in coming up with negotiation positions under the TFTA, as the majority of the CSOs were not involved in the TFTA process. In addition, the architecture of the TFTA process and of SADC in general, which does not involve CSO participation, could also explain this lack of participation.

At the TFTA-level, the expectations would be that the TFTA Secretariat should provide information on what is really happening before the regional economic communities give CSOs space in their technical meetings to participate. The main challenges that hamper CSOs' effective and full participation and contribution to regional trade policy making, trade negotiations and regional integration was the limited financial capacity of the CSOs.

Thus, unless they get funding, they could not attend meetings. Trade policy is also considered a difficult area for most CSOs to grasp and understand, which sees them choosing not to get involved in trade negotiations. Despite these observations, it is still

imperative that CSOs and other NSAs are given similar opportunities as those given to private sector.

It must therefore be noted that civil society can confer legitimacy on policy decisions made in the TFTA level and others. Having brought out this context, it is important to understand what role CSO/NSAs can play in the TFTA – beyond the issues highlighted in the preceding paragraph (Table 1).

Table 1: Possible Roles of CSOs in Optimising Gains of the TFTA Process

| Issue | Possible Role of CSO/NSAs |
|---|--|
| <p>Lack of transposition and appreciation</p> <p>The TFTA, just like other similar initiatives has ambitious goals. A positive feature of the Tripartite initiative is that it involves a shift away from the EU integration model that all of the most RECs have used as the template for their integration programmes.</p> <p>Despite this, a consequence of this high-level of ambition is that implementation requires substantial administrative resources to be allocated and a high degree of economic policy convergence to be achieved. Evidence shows that progress has been limited on other RECs and limited political will to implement what has been agreed has been cited as a major cause.</p> | <p>Nations ratify protocols or treaties</p> <p>A quick observation reveals that national political leaders take policy decisions at RECs without putting in place the institutional arrangements and accountability systems that are needed for follow through and implementation. Too often REC-level commitments and goals turn out as empty rhetoric.</p> <p>CSOs could help government negotiators keep their eye on the prize, so to speak. The level of inertia in the regional and global political arena is high, and public officials are often risk averse. CSOs can continually remind negotiators of the stakes.</p> <p>In the ever changing and complex world of policy advocacy CSOs are increasingly recognising the need to understand policy processes better, use evidence to engage with them more effectively and develop strategies in order to engage with policy makers in a more systematic way so as to make their contributions have sustained impact on development policy. To attain this, CSOs need to be capacitated.</p> |
| <p>Uncertainty on TFTA</p> <p>Lack of agreement in some major areas has led to a substantial watering down of ambition on the TFTA. Significant uncertainty prevails as to when the TFTA will be concluded (ratification and domestication) or what it will entail to participating countries.</p> | <p>Uncertainty is a product of lack of awareness</p> <p>CSOs with capacity and knowledge can provide cogent messages that educate the signing authorities and informs beneficiary stakeholders on the gain or loses.</p> |
| <p>Fears that the TFTA will further promote trade openness</p> <p>True, greater openness can pose serious challenges particularly for domestic industries, as greater integration into the regional/TFTA economy through freer trade increases the speed at which shocks can be transmitted to the domestic economy where poor and marginalised sections often lack the means to withstand such shocks.</p> | <p>Considered by many to be an argument against trade</p> <p>Rather it brings home the importance of having in place proper defence mechanisms (trade remedies) and a strengthened domestic market that can compete favourably with internationally produced products. This misrepresentation resulting in information asymmetry needs to be corrected and CSO through proper messages can bridge the knowledge gaps.</p> |

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| <p>Limited intra-regional trade could spill over to the TFTA</p> <p>Intra-regional trade in most RECs is low. For example, intra-trade in COMESA is about 7 percent. Most of member countries trade with the west. A basic prerequisite for a significant increase in intra-Africa trade and trade in general is having right policies and instruments in place.</p> | <p>Having right and implementable policies requires increasing the pool of policy ideas</p> <p>Civil society engagement increases the pool of competing policy ideas. Competition is not always a positive force, but in searching for a best possible outcome for the broadest range of people, it is enormously helpful. CSOs often make it their business to analyse the impact of policy options on the constituency that they are most closely involved with. CUTS International. For example, seeing at the impact of trade negotiations on a vast range of development issues and proposing the least harmful of these options to trade negotiators.</p> |
| <p>TFTA and small, informal traders</p> <p>TFTA is perceived as an elitist agenda. How can small traders benefit?</p> | <p>Through building strong lattices with key payers that have potential to positively shape trade pertains of member states, CSO have can document their priorities and transport them into the policy processes at regional-level.</p> |

Conclusions

Today, regional and multilateral trade decision and policy making is more far-reaching than ever before. Because so many crucial areas of life are affected, all sectors naturally want to be part of the decision-making. This includes civil society and other NSAs. This paper attempted to understand how CSOs are engaged in the TFTA negotiation process and what form of engagement platforms exist.

It is clear from this paper that, CSOs are important stakeholders in the regional integration agenda. Firstly, civil society engagement increases the pool of competing policy ideas as CSOs often make it their business to analyse the impact of policy options on the constituency that they are most closely involved with. Secondly, the level of inertia in the regional trade policy arena like the TFTA is high, and public officials are often risk averse. Therefore, CSOs help government negotiators keep their eye on the prize. Thirdly, CSO can confer legitimacy on policy decisions made at the regional and multilateral trade arena. International negotiators need political support both to quell nationalistic tendencies and to generate consent for the outcomes.

Despite these potential valuable inputs from CSOs, the TFTA process has not appreciated such inputs yet. This also applies to one of the member REC i.e COMESA, which is in contrast with SADC and EAC. The latter two do not only have express provisions in the treaty guaranteeing CSO participation, but they also have set up institutional structures or platforms for engagement.

Further, it has been observed that that the vertical relationship between national CSOs and those representing them at regional-level, in some cases is bleak. The study has established that some of the regional consortiums have limited technical capacity to knowledgably push for the necessary policy and practical changes. In part, this imbalance occurs because of the high barriers to entry to the regional arena. The lack of participation of vast populations is a weakness that will threaten the legitimacy of regional civil society until it is rectified.

Like all the other groups of stakeholders, CSOs too face the challenge of limited technical and human capacities to deal with complex and evolving issues related to trade policy. This capacity constraint is even more evident in relation to robust, research-based advocacy. To be an active actor requires very high-levels of education, mobility and proficiency in the required languages etc.

Moreover, CSO dependency on funding from donors who might change their priorities means that CSOs are unable to maintain sustained engagement in, and retain the knowledge and expertise gained on trade issues. There are also some constraints that are specific to the CSOs. First, some CSO positions have been quite at variance with those of their governments who are the responsible entities to formulate regional policies. These tensions with government have led to a certain amount of mutual mistrust. Second, other groups of stakeholders also question representativeness and mandate of the CSOs, as unlike any other group of stakeholders CSOs do not have formal mandates from any constituency.

With this abridged account of the key ensuing issues, below are some of the key recommendations. These all hinge on strengthening the culture of dialogue and inclusiveness:

a) ***Developing and Institutionalising an Engagement Framework***

TFTA requires an engagement framework to be development that spells out the composition, and procedural requirements. This framework should define the form and how horizontal engagement processes (*i.e. umbrella CSO regional organisations with REC secretariats and other players*) will be sustained on one hand and how the vertical (*i.e. umbrella CSO regional organisations and national focal CSO points*) will be consistently maintained to ensure quick uptake and transmission of issues into the dialogue framework.

b) ***Rationalisation and strengthening of consultative mechanisms***

Participating RECs in the TFTA should consider rationalising the mandates and number of consultative mechanisms in their region and aim to consolidate the proposed framework under (a).

c) ***Multi-stakeholder informal dialogues***

While recommendation under (b) emphasises on the need to rationalise formal engagement frameworks, CSOs are however being encouraged to seek to create conditions for and then participate in informal but result oriented engagement platforms. These are a good way to operate outside official channels (as proposed above) but nevertheless affect official willingness to develop regional public policy.

d) ***Improving coordination***

Coordination among the relevant three RECs (*COMESA, EAC and SADC*) despite being at variance on their level of integration is important for the success of TFTA. Further coordination between the three RECs and the rotation Secretariat of the TFTA is also required. The success of this coordination also hinges on having States that understand and are conversant with coordination issues.

