

# Magnifying The Role of Non-State Actors in The Africa Continental Free Trade Area

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Email: [lusaka@cuts.org](mailto:lusaka@cuts.org)  
Web: [www.cuts-lusaka.org](http://www.cuts-lusaka.org)

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This paper was authored by Aquila Ng'onga, Assistant Programme Officer, CUTS Lusaka.

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# Executive Summary

The AFCFTA will connect 1.3 billion people across 55 nations, amassing a combined gross domestic product (GDP) valued at US\$3.4 trillion and will potentially lift over 30 million people out of extreme poverty. Given the many benefits that could be obtained from countries successfully integrating into the AFCFTA, it goes without emphasizing the importance of consultation in making this a reality. Hence, the role of consultation in policy and regulation formulation cannot be overemphasised as it encompasses the actual needs that speak to the status quo. In never leaving anyone behind, it is only logical to build mechanisms that capture the voices of marginalised groups such as Non State Actors (NSAs) while attempting to build policies and reforms that include them. In this regard, magnifying the role of Non State Actors by capturing their voice, will be crucial in maximising the potential gains of the AFCFTA. This policy brief highlights the importance of Non State Actors in regional integration and in the same vein identifies the impedances NSAs face. While doing so, it offers key recommendations on how NSAs could enhance their engagement with the AFCFTA in the quest to magnify their role in regional integration.



# 1. Introduction

The Africa Continental Free Trade Area (AFCFTA) offers members states a great opportunity to advance their developmental agenda by enhancing competitiveness at the industry and enterprise level through exploiting opportunities for scale production, continental market access and better reallocation of resources.<sup>1</sup> As the largest free trade area in the world, the AFCFTA will connect 1.3 billion people across 55 nations amassing a combined gross domestic product (GDP) valued at US\$3.4 trillion. Further, it has the potential to lift over 30 million people out of extreme poverty by 2035 and to raise the incomes of 68 million others who live on less than \$5.50 per day.<sup>2</sup>

Worth noting is that effective implementation of the AFCFTA has to have a multitude of strategic interventions from member countries without which will simply be considered a utopia of illusion. This implies strengthening of the AFCFTA is of high importance more generally, but specificity of considerations will depend on the level of challenges in the different areas of concern stemming from a socio-economic point of view to the inclusion of non-economic dimensions that maybe overlooked and hence affect national government's effective integration. There must be a clear mechanism of how this must go. Among the many issues needed for redress include several outstanding issues around Competition Policy and Regulation, Investment, Intellectual Property Rights (IPR) and the role of the Regional Economic Communities (RECs) and more importantly non-economic dimension largely bordering on the inclusion of Non State Actors (NSAs). This inclusion must be undertaken with some consideration of how existing trading blocs have barely integrated NSAs into the RECs. Therefore, paying particular attention to the weaknesses, the failures and challenges of the existing blocs will prove crucial to the way in which NSAs are successfully integrated into AFCFTA especially given the larger context of its coverage.

Hence, it goes without emphasizing that a valuable addition to the AFCFTA strengthening is the building of an environment where policies and regulations are formulated from sufficient consultation premised on the inclusion of NSAs. Consultation is important in policy and regulation formulation as it encompasses the actual needs that speak to the status quo. Trade policy making and implementation at national, regional and continental levels, within the context of the larger development policy, requires a consultative process involving all stakeholders, particularly those marginalised groups most affected by liberalised trade<sup>3</sup>. Consequently, as countries prepare for integration into the AFCFTA, there is a pressing need to develop robust consultative mechanisms and structures that capture the voices of NSAs, private actors,

and more general civil society organisations (CSOs). These Consultative mechanisms must cover all priority trade issues and function properly to ensure two - way information and feedback flow between government and non - state actors<sup>4</sup>.

NSAs will play a key role in ensuring that gains for the AFCFTA are distributed more evenly so that interventions aimed at lifting people out of poverty are met. Therefore, in strengthening the AFCFTA, NSAs will be important partners in the integration agenda.

## 2. Importance of NSAs in Regional Integration

The role of NSAs in regional integration cannot be over emphasised.

### 2.1. Sustainability

NSAs are key in continuity. As per democratic requirement, regimes have a tenure which is eventually met with expiration. With the emerging of new regimes after elections or by any means of legal government change, priorities in relation to regional integration may be threatened. NSAs will be key in ensuring that a particular strategy is not simply dumped in the instance that there are political changes, hence it becomes necessary that NSAs are well merged into the different levels of national planning. Key trade negotiations, implementation and any progress made with regards to regional integration must not be abandoned because of changes in government.

### 2.2. Policy analysis and Recommendation

Non-state actors play a major role in policy making of nation-states. They come with paraphernalia that will supplement the work of government. For example, in Kenya during the formulation of the National Disaster Risk Reduction Policy, NSAs contributed in policy formulation through funding, research and data analysis, technical support and lobbying policy makers.<sup>5</sup> In stretching the implementation capacity and delivering meaningful policies in the AFCFTA to ensure that the benefits are distributed equitably, bringing the NSAs on board will prove vital. NSAs will offer evidence-based recommendations which will ensure that the welfare of people is well reflected. Civil Society Organisations may have sufficient know how and human capital which will prove valuable when engaging in the diverse areas of policy formulation such as Competition Policy and Regulation and Intellectual Property Rights (IPR). Key for consideration is that CSOs have a wider reach and tend to represent the interests of the vulnerable,

hence their inclusion presupposes that voices of the vulnerable will be included in policy formulation.

## 2.3. Transparency and Accountability

Transparency and Accountability will be of essence in the AFCFTA. People must have easy access to all information relating to the AFCFTA. Governments must also be transparent in their engagements and ensure to fulfil commitments in relation. Non State actors and in particular, civil society organisations can advocate for an adequate legal and institutional framework and also try to ensure that government actors respect the principles of equality and non-discrimination by guaranteeing effective transparency, public participation and overall accountability<sup>6</sup> when treading in the AFCFTA waters. Further, NSAs can play a role in monitoring and evaluation of policies and in turn enhance accountability and transparency of the system<sup>7</sup>. This is essential in not only promoting respect for the rule of law, but also important in curbing corruption which is a major impediment in poverty alleviation. The same would be extended to combating tax evasion and illicit financial flows. Further, aspects of accountability and transparency help ordinary citizens to have channels of redress through representation by CSOs, hence, the inclusion of NSAs amplifies the voices of the poor in effective implementation and country integration into the AFCFTA.

## 2.4. Putting Agreements into Practice

While government executives may be in the forefront of negotiations and signing of these agreements, it's the private sector that mostly put a practicality aspect to the process. For example, cross border traders will be the ones using these agreements. This means that will also be key in ensuring that some objectives are met. For example, there will be goals to increase exports of a certain product or service, it will be upon these players to see the objectives into fruition. There is no point in liberalising trade with limited players to make use of the opportunity.

## 2.5 Advocacy and Representation of Stakeholders

NSAs play a pivotal role in ensuring a level of inclusivity. Governments may sometimes forget the voices of marginalised groups. When marginalised groups are not recognised or are even criminalised, they are not able to access services and

support to alleviate their community challenges.<sup>8</sup> Through relationships they build with marginalised stakeholders and being better equipped to reach out to them through media outreach, information dissemination, NSAs are well placed to represent these marginalized stakeholders and advocate for their priorities and interests with Government in the process shaping country positions on key issues and help in broad based consensus building.

## 3. Challenges Faced by NSAs: Lessons from AU and RECs

The following are some of the identified challenges faced by NSAs in their engagement with the AU and existing RECs.

### 3.1 Capacity Issues

NSAs may sometimes be constrained by their limited technical and financial capacities. Many NSAs lack adequate resources to effectively participate in and contribute to the regional integration agenda and to engage with the SADC Secretariat, national and regional mechanisms contact points<sup>9</sup> for example. CSOs may be faced with a serious shortage of skills and staff, and departments could be seriously understaffed for example the ECOWAS' Civil Society Unit.<sup>10</sup> With a limited technical and financial capacity, it will be challenging to capture sufficient feedback necessary to create substantial solutions that encompass as much issues as possible.

### 3.2 Shrinking Space

Recently, civil society organisations specifically have bemoaned the shrinking space for their participation and engagements. Across the continent, they have called for greater access to continental institutions such as the African Union (AU) and regional economic communities (RECs)<sup>11</sup>. It was noted that while CSOs could have capacity to reach across borders on pertinent issues, but would need functioning channels through which to engage with institutions such as the AU and RECs which were stated to not always be available. While the AU aspires to transform itself into a people-centered organisation – a principle contained in Agenda 2063 – civil society is often relegated to a secondary role.<sup>12</sup>

### 3.3 Ad Hoc Engagements

NSAs usually bemoan the ad hoc nature of engagements within RECs. For example in SADC, It is one of the major challenges and not undertaken in a well-coordinated manner and this leads to an engagement gap that exists in dealing with issues of SADC.<sup>13</sup> If engagements continue this way, it makes



it impossible to have concrete planning and solutions as the engagements could be rushed.

### 3.4 Bureaucracy Limiting Effective Representation

The existing NSA formations and engagement platforms are not fully representative of every sector, geography or thematic coverage, among others. Ordinary citizens and NSA groups find it challenging to make significant contributions to regional integration because of the existing formal bureaucracy in the NSAs that suffocates their visibility. Further, RECs themselves may limit access of NSAs to them. At COMESA for example, only those groups with expertise on regional integration and regional issues are likely to be accredited.<sup>14</sup> The NSAs and RECs need to create more accommodating spaces that capture as many voices as possible, leaving no one behind.

### 3.5 Uncoordinated Scheduled Engagements

The decision to hold engagements may not be in the power of NSAs, but the RECs. This is retrogressive because engaging on matters that may need immediate intervention may be delayed or foregone. Studies conducted by SADC showed that the engagement between SADC and NSAs have a tendency of occurring at the discretion of the Secretariat. It is difficult for NSAs to engage SADC policymakers in the SADC Council and Heads of State Summit Meetings directly. This therefore reduces SADC to the secretariat. SADC notes that this 'myth', moving forward needs to be untangled by placing emphasis on the fact that SADC is broad and, as such, effective engagement must also take place at the national levels as well.<sup>15</sup>

### 3.6 Lack of Rules of Procedure for Participation

While there are some mechanisms for NSA participation, which however, are not effective, there are limited rules of procedure for NSA participation, and few regular open, public hearings and consultations that enable NSAs to provide formal inputs and submissions to RECs such as SADC.<sup>16</sup> If there are no clear guidelines as to how to engage with RECs, it becomes difficult for NSAs to have a clear roadmap of the level of contribution needed for the integration process. Guided steps at both national and regional levels will make the process less arduous for NSAs.

## 3.7 NSAs at Regional Level Lacking Common Approach

NSAs in the region have diverse approaches when working with RECs. This is challenging for RECs because they have to deal with a diverse group of actors not all of whom are versed in operations of RECs or have the expertise to meaningfully engage and provide input into the regional integration processes. This lack of knowledge on how RECs operate and how they are structured impact negatively on CSOs' intervention strategies.<sup>17</sup> Therefore, there is need for more collaborations and link strengthening among NSAs in the region to have a common approach when dealing with the AfCFTA in this case which will make it easier for engagements.

## 4. Recommendations

In magnifying the role of NSAs in the AfCFTA, the following recommendations are proposed:

### 4.1 NSA Collaboration

There are multiple NSAs with mutual concerns, but there may be challenges in receiving intervention from the AfCFTA administration in a space devoid of coordination. Therefore, NSAs must build a collaborative front that will allow them to have a single and stronger voice. Collaboration will enhance the capacity of the NSAs to engage with the AfCFTA technically and financially. Further, to effectively capture all the crucial aspects around a concern, collaboration will be helpful and therefore it must be encouraged and actualised both at national and regional level. In addition, collaboration will also limit possibilities of overwhelming the AfCFTA as a common approach will deem efficient and hence smooth handling for the AfCFTA. Lastly, in building capacity, NSAs can train themselves to enhance their competence in engaging with the AfCFTA, again making it easier for the AfCFTA to respond to presented issues.

### 4.2 Strengthening Platforms in Existing RECs

It must be noted that AfCFTA agreement acknowledges Regional Economic Communities (RECs) Free Trade Areas as building blocks towards the establishment of the African Continental Free Trade Area (AfCFTA). This is important because the existing RECs are a foundation upon which the AfCFTA can be mounted. In this vein, it is imperative to strengthen the existing platforms and structures that allow NSA engagement in the quest to further strengthen the AfCFTA.

Therefore, strengthening the SADC National Committee, for example, can improve NSA participation at national level. Improving participation at national level is important in capturing pertinent issues around poverty alleviation and further improve NSA engagement mechanisms.

## 4.3 Stipulation of Rules of Engagement

NSAs require a clear description of the engagement procedure. The rules must be able to account for possible occurrences that may stem out of the process. This may limit arising conflicts and discrepancies among players and ultimately smoothen the process. Rules must be simplified to ensure that they are comprehended clearly by all levels of NSAs.

## 4.4 Scheduled Engagements

There must be a stipulated timeline of engagements to allow stakeholders adequate planning prior to meetings. This will enable quality engagements and sustainable solutions in the AFCTFTA. Further, these engagements must not only exist at the discretion of the AFCFTA. It will be important to hold engagements at the request of NSAs to allow solution provision on matters that may need immediate intervention. These engagements must ensure information flow from both ends.

## 4.5 Ironing Out Bureaucracy

Before NSAs begin to air grievances on the challenges of engaging with responsible bodies in the AfCFTA, they must ensure that they have inclusive and flexible structures that capture and represent the various voices of NSAs in that umbrella. All decision making must occur after consultations from everyone to ensure concise representation. RECs also on the other hand must complete this cycle by limiting any form of politicking that may exclude some NSA voices.

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Consumer Unity & Trust Society  
CUTS Lusaka

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CUTS International, Lusaka  
Plot No 406 Kudu Rd, Kabulonga, Lusaka  
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