

DEMOCRATIZING EPA NEGOTIATIONS

CHALLENGES FOR
ENHANCING THE ROLE OF
NON-STATE ACTORS



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LIST OF ACRONYMS.

ACODE	Advocates Coalition for Development and Environment.
NSA	Non-State Actors
ACP	African Caribbean and Pacific
EU	European Union
EC	European Commission
EPA	Economic Partnership Agreements
CSS	Country Support Strategy
NAO	National Authorising Officer
NIP	National Indicative Programme
RIP	Regional Indicative Programme
CPA	Cotonou Partnership Agreement
RSS	Regional Support Strategy
CSOs	Civil Society Organisations

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Executive Summary

The Cotonou Partnership Agreement signed in June 2000 between ACP Countries and the European Union recognises non-state actors as parties in the development process. It envisages participation of non-state actors in setting the development priorities and implementing programmes within their countries.

However, three years since the signing of the Agreement, participation of non-state actors in Uganda especially in EPA negotiations is not impressive. The non-state actors involvement in the key processes which entails the Country Support Strategy, National Indicative Programme, Regional Indicative Programme and Regional Support Strategy and review process covering the NIP,RSS, RIP and actual negotiations has been negligible.

The challenge to effective participation has been largely inadequate period for consultation with non-state actors, the timeliness and quality of information about the processes, lack of structured dialogue, insufficient feed back mechanism and failure to provide time tables for the processes. On part of the non—state actors, the challenge has been lack of capacity in analytical skills and physical infrastructure due to lack of financial resources to attract the competitive human resource and establish the necessary infrastructure. Building capacity of non-state actors as envisaged under the agreement is yet to meet this challenge. In addition, Lack of coordination among CSOs, mistrust, suspicion and marginalisation makes the civil society actors weaker, vulnerable and ineffective.

Therefore, there is need to always publicise information on the negotiation processes, establish an effective feedback mechanism, extend the mandate of the Inter-institutional committee to cover the EPA negotiations, strengthen Civil society capabilities as promised under the Agreement and streamline funding mechanism. Non-state actors must be provided with the timetables for the processes early enough to make necessary preparations. Non-state actors on the other hand must become more strategic in their own programming to make Cotonou Partnership part of their objectives, improve networking and coordination in order to become more effective. Unless these issues are systematically dealt with non-state actor participation in EPA negotiations will remain a rhetoric.

1. Introduction:

The ACP-EU Partnership Agreement (also known as the Cotonou Partnership Agreement) signed in 2000 between ACP countries and the member States of the European Union represent a fundamental departure from the traditional international agreements.³ For the first time, actors originally not recognized in international law are accorded a recognized status in an international legal instrument. By declaring that “the parties recognize the complementary role of and potential for contributions by non-state actors to the development process”, the Cotonou Partnership Agreement elevates non-state entities to a status often reserved to States as Parties to an international agreement.⁴ This position has at least two major implications. First, it represents recognition of a mutually beneficial partnership between states and non-state entities and what this partnership can achieve in the development process. Secondly, it vests non-state entities with the legal basis for demanding full involvement in all the processes related to the implementation of the agreement.

However, almost four years ever since the Cotonou Partnership Agreement was signed, the involvement of non-state actors especially from the ACP States in general and Uganda in particular has been less impressive if not virtually non-existent. This observation is perhaps most evident no where else than in the process to negotiate Economic Partnership Agreements (EPA) envisaged under Article 37 of the Agreement. This research paper examines the current level of participation by non-state actors in the ACP-EU partnership on the one hand and in the EPA negotiations on the other. We analyze the key challenges to operationalizing the relevant provisions of the Agreement with respect to non-state actors and proposes strategic options for scaling up the participation of non-state actors especially from the ACP parties. It is observed that at the basic minimum, we have witnessed attempts by the partnership to involve non-state actors in key process such as the national programming processes. It is argued however that, hitherto, there is little evidence of participation of non-state actors in EPA negotiations and effective participation remains a victim of the legacy of the Lome Convention era combined with the historical bureaucracy of the ACP-EU partnership. Yet, given the ever growing importance attached to trade policy and international trade negotiations, EPA's are likely to become a major vehicle by which the Cotonou Partnership Agreement will be implemented. Consequently, non-state actors, seeking to influence the future direction of ACP-EU partnership ought to consider EPA negotiations as a strategic entry point for their participation in the partnership.

2. Non State Actors under the Lome Conventions

The cooperation between the ACP and the EU dates far back to the period of colonialism and especially through the successive Lome Conventions⁵. For Uganda in particular, the cooperation strengthened around 1976 shortly after coming into force of the first Lome Convention, when the European Union Delegation to Uganda was established⁶. Since then the

³The Cotonou Partnership Agreement was signed in Cotonou on June 23, 2000.

⁴ Article 4

⁵ There are four successive Lome conventions; Lome I (1975-80) Lome II (1980-85) Lome III (1985-90) Lome IV (1990-95)

⁶ JR. Ekongot (2002) *civil society participation in the ACP-EU. Country support strategy process in Uganda* (unpublished report)

cooperation has been governed by successive framework agreements, the Cotonou partnership agreement signed June, 2000⁷ being the latest in the series.

Until the late 1980s, international cooperation and international agreements were the preserve of States and other international entities recognized under international law. Even at the national level, governments were exclusively responsible for shaping development policy and international cooperation. Policy formulation and implementation was an exclusive responsibility of the central government. The Lome Conventions largely constructed around this philosophy, providing limited opportunities for other development players (now referred to in the Cotonou Agreement as non state actors).⁸ While special provisions were made for micro- projects under Lome I (1975-80) and for decentralized cooperation under Lome IV (1990-95), participation was usually confined to project implementation at local level, and involved relatively few financial resources⁹. There were virtually no opportunities for structured dialogue on policy issues or cooperation priorities. The non state actors themselves were less informed of the window of opportunities available and did not appreciate their role in these cooperation frameworks.

When the European Commission started consultation process for the successor agreement to the Lome Conventions in 1996, non-state actors generally regarded the hitherto existing arrangement as a “closed shop” reserved for the governments.¹⁰ This kind of monopoly was widely seen as a contradiction to the process of economic liberalization, which emphasized the need for consensual way of making policy through dialogue with a broad range of stakeholders. During the negotiations on the successor agreement to Lome IV, broadening participation in the partnership emerged a priority issue. It was generally believed that such a process had tremendous benefits that outweighed any potential disadvantages. Involving non-state actors in the partnership process was perceived to have the potential for increased ownership of the process, and presented fresh opportunities for building new public-private partnerships while consolidating democratization and improving chances of sustainability for the new partnership arrangement.

Examination and evaluation of the past cooperation is often very essential for deriving constructive guidance for future policy and practice. Prior to the negotiations that resulted in the Cotonou Partnership Agreement, an analysis of the Lome framework was done and the principal lessons documented. These lessons formed the basis for the current legal provisions on the actors of the partnership under the new partnership agreement¹¹. The green paper recognizes that some of the past inadequacies were rooted in such factors as disagreements over political priorities, lack of consistent sectoral policies among ACP states, the EU heavy reliance on technical assistance, and limited consultations to determine the implementation of its aid operations.

⁷ the Cotonou partnership agreement was signed in June 2000 in Cotonou, Benin. It succeeded Lome IV convention and provides for a comprehensive framework of cooperation for the next 20 years

⁸ Non-state actors are defined under article 6 to refer to the private sector, economic and social partners, including trade union organizations and civil society in all its forms according to national characteristics.

⁹ In 1996, the EU Commission launched a wide ranging public debate preceding the formal process of negotiation and synthesized in a green paper- EU Commission (1996) Green paper on relation between the European Union and the ACP countries on the era of the 21st Century: Challenges and Opportunities for the

¹⁰ *ibid*

¹¹ In 1996, the EU commission launched a wide ranging public debate preceding the formal process of negotiation and synthesized in a green paper- European Commission (1996) Green paper on relation between the European Union and the ACP countries on the era of the 21st century challenges and opportunities for the new partnership. EU secretariat ([http:// europa.eu.int./com/development](http://europa.eu.int/com/development))

One of the major issues raised by the EC Green Paper was the apparent lack of public participation in the implementation of the Lome Conventions. The Green Paper noted the conspicuous absence of a process of dialogue, unclear or little knowledge of the EU policies, centralized management, lack of information, as well as absence of proper mechanisms for dialogue and consultation among the different actors of the Partnership. Consequently, in the Cotonou Partnership Agreement, we see a deliberate attempt to create a new legal framework for the involvement of non-state actors in the new partnership arrangement. The Cotonou Partnership Agreement therefore represents a crystallization of desire on the part of the ACP and EU States to cast the net wide enough to bring different groups of actors that would ordinarily be interested in the development process as conceived under the Agreement.

3. Public Participation and Non-State Actors: An Innovation of the Cotonou Agreement

The increasing role of non-state actors in the development processes is no longer contestable. Non-state actors especially civil society organizations represent the voices of the voiceless sections of society; they are key development agents; they are watchdogs for respect for human rights; and they contribute significantly to shaping national and international policies and project implementation. Public participation also fosters participatory democracy.¹²

Consequently the recognition of non-state actors, the principle of participation and the value of dialogue are perhaps some of the major defining characteristics of the Cotonou Partnership Agreement. Three of the four fundamental principles of the Agreement (Box 1) directly refer to participation and dialogue. In particular, the agreement states

that “apart from central government as the main partner, the partnership shall be open to different kinds of other actors in order to encourage the integration of all sections of society, including the private sector and civil society organizations, into the mainstream of political, economic and social life. The agreement therefore creates promising opportunities to mainstream the full participation of non state actors (NSA) in the political dialogue and in the formulation and implementation of future ACP-EU cooperation policies and Programmes.¹³ Non-state actors are described in article 6 to include private sector, economic and social partners including trade union

Box 1: Article 4: General Approach

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 recognize the complimentary role of and potential for contributions by non-state actors to the development process. To this end, under the conditions laid down in this agreement, non-state actors shall, where appropriate:

- 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.
- be provided with financial resources, under the conditions laid down in this agreement in order to support local development processes;
- be involved in the implementation of cooperation project and programmes in areas that concern them, or where these actors have a comparative advantage;
- be provided with capacity-building support in critical areas in order to reinforce the capabilities of these actors, particularly as regards organization and representation, and the establishment of consultation mechanism including channels of communication and dialogue, and to promote strategic alliance.

¹² Bainomugisha, A., Tumushabe, G., and Muhwezi, W., 2000. *Towards Strategic Engagement: Freedom of Association, Government -NGO Relations and the Quest for NGO Law Reform in Uganda*. ACODE Policy Research Series, No.1, 2000. ACODE. Kampala.

¹³ Articles 4-8 of the Agreement

organizations and Civil Society in all its forms according to national characteristics.

It is important to note that the new approach taken by the Agreement represents a radical departure from the legacy of the Lome Conventions which was largely characterized by exclusion and the total absence of participation of non-state actors. The new spirit of democratization and popular participation embodied in the agreement underscores new roles for governments as being more of facilitators than controllers or regulators.

Box 2: Some of the Unique features of the Cotonou Partnership Agreement

- Involvement of non-state actors (Articles 4 & 6);
- Promotion of participatory approach;
- Commitment to political dialogue (Articles 8-11);
- Creation of an investment facility to support the growth of the private sector (Article 21).
- Decentralization of administrative and financial responsibilities;
- Commitment to provide financial support and strengthen capacity of non-state actors (Articles 5, 7 & 58).
- Environment and natural resources (Article 32)

The agreement recognizes the right of ACP States to determine their development strategies. Article 4 of the Agreement states, among other things, that the “ACP States shall determine the development principles, strategies and models of their economies and societies in all sovereignty. This new approach provides an opportunity for the development of country based and country driven strategies and programmes and hence opening up a window for non-state actors within the individual countries to participate in and influence these national strategies.

One of the key limitations to public participation in processes such as the ACP-EU Partnership is the limited capacity and financial resources at the disposal of non-state actors. The Cotonou Partnership Agreement seeks to change this phenomenon in at least two ways. First, article 7 of the Agreement makes special provisions for capacity building for civil society. The Agreement envisages that the partnership will encourage and support the creation and development of civil society as well as facilitating the establishment of arrangements for involving civil society organizations in the design, implementation and evaluation of development strategies and programmes.

Secondly, by recognizing non-state actors as an integral part of the Cotonou arrangement, the Agreement creates new opportunities for non-state actors to access funds under National Indicative Programmes (NIP) and Regional Indicative Programmes (RIP). In fact, article 58 of the Agreement establishes the eligibility of non-state actors to obtain financial support under the Cotonou framework.

4. Measuring Participation: What Would be the Indicators?

It is now over three years ever since the Cotonou Partnership fundamental principles and specific mechanisms through which non-state actors should participate in the partnership arrangement, the challenge is to identify guiding indicators that may be used to determine whether the practice related to participation and dialogue conforms to the

spirit and the letter of the relevant articles of the Agreement. Although developing indicators for participation of non-state actors is beyond the scope of this briefing paper, this section presents a number of key parameters that could be used to assess the extent of current participation of non-state actors in the Cotonou Partnership arrangement in general and the EPA negotiations in particular.

Ensuring public participation in any particular process is always a challenging task for governments and other actors. The critical questions often revolve around who should participate, what should be the nature of participation, and participating in what? In the case of the Cotonou Partnership arrangements, the key actors are provided for and described under article 6 of the Agreement. As far as the second question relating to the nature of participation, the following indicators could be used to measure whether non-state actors have been effectively involved in the Cotonou Partnership arrangement in general or the EPA negotiation process in particular.

The third critical question is “participate in what?” For purposes of this briefing paper, it is considered that the starting point for answering this question is to look at the key policy processes stipulated under the Agreement through which different actors can set, contribute to, or influence the agenda of their member States. Based on this approach, it is then clear that participation of non-state actors could be measured along a three pillar axis: national, regional and international. At the national level, the key policy and planning process where participation is crucial include the process of developing a Country Support Strategy and Programming of Aid; the National Indicative Programme Process; and the review process of the National Indicative Programme.

At the regional level, the key processes in which non-state actors should be involved include the preparation and development of a Regional Support Strategy (RSS); Regional Indicative Programme; and the review process of the Regional Indicative Programme. At the international level, non-state actors should be involved in the overall programming of the ACP-EU countries including influencing the policy decisions of the European Community that have implications for trade and development in the ACP States. At all the three levels, the ongoing negotiations for the Economic Partnership Agreements (EPAs) (Article 37) represent a real opportunity for shaping the future trading arrangements between the ACP and the EU countries. In the following sections, we analyze on the basis of

Box 3: Critical Processes for Potential Participation

- Country Support Strategy and Programming of Aid process
- National Indicative Programme
- Regional Support Strategy (RSS) and the Regional Indicative Programme (RIP)
- Reviews of the National Indicative Programmes and the Regional Indicative Programmes.
- Negotiations for Economic Partnership Agreements.

Box 4: Some indicators for measuring effective participation in the Cotonou Partnership Arrangement.

- Appreciation of the Cotonou Partnership Agreement and demonstrated ability to articulate issues of interest to non-state actors within the overall framework of the negotiations.
- Structured and consistent dialogue meetings held with non-state actors where consensus is generated on pertinent negotiating agenda issues.
- The feedback mechanism and information flow – on what is going on in the negotiations.
- Non-state actors participation by providing alternative positions in form of briefing papers and memoranda.
- Attendance at national preparatory meetings, formal negotiations or constituting part of the government delegations to formal negotiations.

process by process the status of participation of non-state actors in the Cotonou Partnership arrangement in Uganda.

4.1. The Country Support Strategy (CSS) and the National Indicative Programme (NIP) Process

The National consultative process for the Country Support Strategy and Programming of Aid (CSS) in Uganda started in the year 2000. The National Authorizing Officer (NAO)¹⁴ and EU delegation in Uganda spear headed the consultation process with non state actors (NSA).¹⁵ Workshops have been the mode of consultations for selected CSOs. The first consultative workshop was held from 13-14 November 2000. It was used basically to provide information about the EU's cooperation with Uganda. Three basic aspects were covered; the first one was the Cotonou agreement and programming principles, the second area covered investment and the private sector development and the third aspect was civil society and non-state actors.

A follow up workshop involving a largely technical audience was convened between 21-22 March 2001. Its task was to define the strategic framework paving way for the log frame for 9th EDF programme of the EU in Uganda. It concentrated on Uganda/EU development policy and issues of coordination, coherence and cooperation with EU member states.

The third workshop that took place in November 2001 covered organizational issues largely aimed at formalizing and putting in place structures and guidelines for formal interface between non state actors, the government and the EU. It aimed at identifying the NSAs' capacity needs to enable them play a stronger role in the Cotonou Partnership Agreement implementation, to raise awareness on the Agreement and to work towards establishing a National Steering Committee that would facilitate dialogue between the EU, Government of Uganda and non-state actors.

Generally, the participation of non-state actors and in particular civil society organizations in this process is considered to have been very limited. In fact, there is no evidence of any specific contributions from civil society organizations or any other segment of non-state actors. Save for attending the several workshops referred to above and presenting CSOs constraints, there is no evidence of any memoranda, notes, or position papers that could provide a basis for measuring the contribution of civil society participants at these meetings. According to some observers from civil society organizations, Government and the EU States have argued that the National Support Strategy is in fact a reflection of the priorities set out in the Poverty Eradication Action Plan (PEAP). Consequently, since it is considered that there has been considerable participation in the PEAP by many segments of non-state actors, then it adds no value engaging in a widely participatory process for the CSS and the NIP.

However, it is important to recognize participation in the actual design of the CSS and the NIP for two important reasons. First, they provide the framework for financial resource

¹⁴ Ministry of Finance, Planning and Economic Development (MoFPED)

¹⁵ Ekongot, J. R., (2002). *Civil Society Participation in the ACP-EU Country Support Strategy process in Uganda. Civil Society Perspective.* (Unpublished Report)

allocation to selected priorities within the PEAP. Civil society organizations therefore should be engaged in redefining these priorities in the context of the CSS. Secondly, the CSS and the NIP extends the context of development policy to the actions of the European Union. There are various policies of the EU such as the Common Agriculture Policy (CAP)¹⁶ that have significant and most times negative implications for domestic policy and programs. To that extent, and by engaging in the CSS and NIP processes, civil society would be empowered and better equipped to fully analyze the implications of EU policies on the implementation of the PEAP in Uganda. The failure to effectively be engaged in the CSS and NIP processes, therefore, does not only undermine the partnership spirit of the Cotonou Partnership Agreement, it also undermines the efficacy of the interventions to support the Poverty Eradication Action Plan.

4.2. The Regional Support Strategy and Regional Indicative Programme Process

The Cotonou Partnership Agreement envisages different ACP regions and the EU to engage in a programming process that would provide the framework for support to regional activities. The regional programming process envisaged under article 8 of Annex IV¹⁷ entails: preparation and development of a Regional Support Strategy; a clear indication from the Community of the indicative resources allocation from which the region may benefit; preparation and development of the RIP for implementing the strategy; and a review process covering the RSS, the RIP and the volume of resources allocated to each region.

To date, there is no evidence of the participation of non-state actors in the regional programming process.¹⁸ Practically, participation of NSA in the regional programming process may actually be made difficult because of two structural reasons. First, article 7 of Annex IV envisages the ACP States to define the geographical configurations that would form the basis for regional programming. The process of defining the geographical configurations has been proceeding very slowly and there is no agreed position to date. Consequently, it is difficult for NSA to even follow the regional programming process in the absence of clearly defined geographical configurations. Secondly, in the absence of mandated ACP regional groupings, the process of developing the RIP is to be undertaken by the National Authorizing Officers (NAOs) of the countries within a particular region. By its very nature, such a process would be exclusionary and leaves no space for participation of many other actors.

4.3. The Negotiations for Economic Partnership Agreements (EPAs)

The negotiations for Economic Partnership Agreement (EPAs) were officially launched on September 27, 2002 in Brussels by the meeting of the EU and ACP States. The negotiation agenda entailed market access issues, agriculture and fisheries development, legal issues, trade in services and other trade related areas. The formal negotiations for the EPAs (phase 1) was scheduled to be concluded by the end of September 2003. Although no binding agreement had been reached by July –August, 2003 Ministerial Meeting, ACP Ministers

¹⁶ For more detailed discussion on the Common Agriculture Policy (CAP) see Mungenyi, O., & Naluwairo, R., 2003. ACODE Policy Research Series No. 6, 2003.

¹⁷ Annex IV: Implementation and Management Procedures.

¹⁸ Personal conversation with Everse Ruhindi of Uganda Gender Resource Centre and Member of the Uganda Civil Steering Committee on the Cotonou Partnership Agreement.

acknowledged that ACP regions and states which were ready and felt that they were in position to commence the second phase could do so. This implies that issues of common concern that were not concluded in phase one would be addressed in parallel with the conduct of phase two negotiations.

Essentially, the EPA negotiations process provides at least three specific areas where NSA could seek to participate and influence the process. The first area is the phase preceding the start of formal negotiations which were slated to begin in September 2002. Article 37(2) provides that “the period up to the start of the formal negotiations of the new trading arrangements shall be actively used to make initial preparations for these negotiations.” With respect to NSA, this period could have been used to educate themselves about the process, build their capacity and prepare proposals to inform the agenda for formal negotiations. The second opportunity where NSA could have participated in the EPA negotiation process was the formal negotiations leading up to the period September 2003. Finally, the third and perhaps now the most critical opportunity for participation is the negotiations process that are going on leading up to the end of the preparatory period slated to end on 31 December 2007.

It is important to note that since the signing of the Agreement, non-state actors in Uganda have not participated in shaping the agenda nor contributed to the positions taken by the country to the EPA negotiations. It is apparent that EPA negotiations have not featured anywhere in the various fora organized by various civil society organizations. Evidence from the proceedings of the Inter-Institution Trade Committee (IITC) indicate that Cotonou Partnership Agreement issues have only been mentioned in passing and no substantive discussions have taken place to date.

There are perhaps three important reasons why there has been conspicuous absence of NSA in the EPA negotiations process contrary to the spirit of partnership that is envisaged under the Agreement. First, it is to be noted that trade policy is emerging as one of the most critical public policy issues for any state. It is therefore tenable to argue that it may be to the advantage of the EU in particular to exclude NSA since they have demonstrated significant abilities to articulate issues of a public interest nature as far as trade is concerned. In other processes such as the WTO, NSA especially civil society organizations have championed the interests of the poor and vulnerable groups by articulating the development needs of poor countries. It appears that the EU would be uncomfortable if such issues were to be introduced in the EPA negotiations. This conclusion is based on the fact while we see that the EU has been more keen to see more participation of NSA in the other aspects of the Agreement, there has been no enthusiasm to champion similar engagement in the EPA negotiations process. In fact, during the process of developing a new civil society support strategy for Uganda, there was apparent efforts to deflect any focus on trade negotiations by civil society.¹⁹

¹⁹ Personal observation by Godber Tumushabe during the series of workshops hosted by the EU Delegation and the Civil Society Steering Committee. It was argued then by some of the Delegation representatives that trade policy advocacy should be the mandate of the private sector and not civil society. In fact, there is less emphasis on trade compared to other areas such as governance, peace and conflicts and human rights.

Secondly, effective participation in the negotiations as well as setting and redefining the agenda for the negotiations requires significant competencies for any interested institutions. Preparing and submitting position papers that can have an effect and inform the negotiations requires research and analytical skills that many NSAs do not have. Consequently, it appears that even if the door for the negotiations was to be open, NSA would need to take advantage of the capacity building and financial resources commitments under the agreement to address this shortcoming.

Thirdly, NSAs in Uganda ought to take the initiative and ensure that EPA negotiations are fully integrated into the work programme of the IITC. The IITC as a multi-stakeholder trade negotiations forum for Uganda provides the best opportunity for NSA to shape the negotiating agenda of the Uganda Government. Any process that is conducted outside the IITC framework would end up being exclusionary and non-participatory.

5. Challenges and Factors Hampering Effective Participation of Non-State Actors

As already indicated in the foregoing analysis, the signing of the Cotonou Partnership Agreement was meant to herald a new beginning as far as the cooperation of States and non-state actors in implementing the partnership arrangement was concerned. However, the current experiences and practice with respect to the participation of non-state actors in Uganda make the Cotonou Partnership Agreement more of a an aspiration than a workable partnership arrangement. In any case, this seems to be the reality with respect to many States within the ACP. To this extent therefore, the Cotonou Partnership Agreement represents more of a set of broken commitments and unfulfilled promises on the part of non-state actors. And unless this situation changes, the partnership is robbed of a potential opportunity to set the agenda in public participation and dialogue while taking advantage of the benefits associated with such multi-stakeholder arrangements.

Based on the above review of participation of Ugandan non-state actors in the various partnership processes described above, the following factors largely account for the near conspicuous absence of participation of non-state actors:

- **Inadequate period for consultation with civil society.** In all the processes considered above, where there have been attempts for holding consultations, the period set aside for such consultations is often very short and unrealistic to allow preparations for any meaningful contributions to the process and agenda of the meetings. In the case of the Country Support Strategy for Uganda, for example, most of the participants were quite unfamiliar with Cotonou process and little time had been provided to allow the process of learning.
- **The timeliness and quality of information about process.** In most of the cases, background information is provided late and in significant quantities allowing little time for analysis, synthesis and preparations. Several participants to some of the

consultative meetings have indicated that they found some of the information inappropriate for their use.

- **Insufficient feed back mechanism:** Most of the non-state actors involved in the consultation process have been little informed about the results of consultations and what subsequent decisions have been taken and documents produced by the official partners. This is partly due to lack of established mechanism that would provide a system of stable and sustained consultations for all the actors involved and for joint work on putting into drafting of the programmes following the consultations.
- **Non-state actors are often not informed of key timeframes:** Most non state actors in Uganda consulted feel that they are left out of the cooperation. They do not know what is happening, how far the CSS process has progressed, and when it would be concluded. They have no idea of the time table for the development of national and regional indicative programmes, funding mechanism and how issues of capacity building and other issues raised in the workshops have been or are being handled.

However, even if the above factors were to be addressed, there are still significant challenges that confront non-state actors if they are to fully take up the opportunities presented by the Cotonou Partnership Agreement. Key challenges include:

5.1. Capacity Issues

Many commentators on the Cotonou Partnership Agreement have consistently raised the issue of capacity of NSA to effectively participate in the partnership arrangement. However, in many cases, these commentators rarely move away from the generalities often associated with capacity building. It is nevertheless important to note that the more specific challenge is the absence of adequate policy research capacity and analytical skills among many civil society organizations. Many issues under the Cotonou Partnership and in particular EPA negotiations are largely technical issues that require particular analytical skills for individuals within organizations to be able to understand issues for negotiations and contribute to shaping the agendas.

The associated challenge is the funding and infrastructure limitations faced by NSAs especially civil society organizations. The human skills needed to address the challenge of analytical skills require substantial financial endowments to ensure that NSAs are able to compete for the best brains on the market. Adequate financial resources are a pre-requisite for establishing the necessary human and physical infrastructure to enable those organizations remain focused on understanding and contributing to the ongoing processes. To date the promises of financial resources and capacity building support envisaged under the Agreement are yet to address this challenge.

5.2. Funding mechanism for civil society within the framework of the EDF

It has been observed that EDF grants are traditionally managed by Governments represented by the National Authorizing Officer. During the process of designing civil society strategy for Uganda in the context of the Cotonou Partnership Agreement, Government raised concerns of accountability issues where it has no specific regulations regarding accountability of funds by civil society organizations. Yet, the possibility of civil society organizations themselves management the expected grant facility was considered untenable due to their inability to raise the necessary guarantee and the possibility of conflict of interest.²⁰ Managing such funds through Government which often has cumbersome bureaucratic procedures, operates on a financial year basis, and is governed by established tendering procedures could have negative implications for the independence and long-term strategic operations of civil society organizations.

6. Fulfilling the Commitments and Keeping the Promises

In conclusion, we can observe that the promise of a new partnership between ACP-EU States and the non-state actors built on the legal framework of the Cotonou Partnership Agreement are yet to materialize. The current level of engagement of non-state actors in general and civil society in particular is far from reflecting the spirit of the Agreement. Indeed, when it comes to the EPA negotiations, the process only represents unfulfilled promises and broken commitments. Consequently, for the benefits of the envisaged partnership to be realized, the challenges identified above have to be addressed. Addressing these challenges requires the full cooperation of Governments and the non-state actors.

On the one hand, non-state actors ought to become more strategic in their own programming to make the Cotonou Partnership objectives part of their objectives. This will enable them channel adequate financial and human resources necessary to mobilize or build skills for policy analysis and monitoring the partnership implementation process.

On the other hand, the Government of Uganda and the European Union should view participation in the entire range of policy processes under the Partnership as a unique opportunity to mobilize all the actors in support of the partnership arrangement. The EU ought to expedite the process of availing funding for civil society activities and deliver fully on the commitments for capacity building. The Government of Uganda for its part should create opportunities for participation by publicizing the timetables for future consultations and reviews especially of the National Indicative Programme. With respect to the negotiations for Economic Partnership Agreements, the negotiations should be institutionalized within the Inter-Institution Trade Committee. This is the best way to ensure that all the actors shape the agenda for the negotiations.

²⁰ See Everse Ruhindi, 2003. *The Path to Effective Participation of Civil Society in the ACP-EU Partnership Agreement. The Case of Uganda. Workshop Presentation. Addis Ababa, 3rd November 2003 (Unpublished).*

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