

HORN OF AFRICA BULLETIN

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HORN OF AFRICA

The African Continental Free Trade Area (AfCFTA)

Potential Contributions of Civil Society
Organisations to the Effective
Implementation of the AfCFTA

Focus on the Eastern Africa Region

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Potential Contributions of Civil Society Organisations to the Effective Implementation of the AfCFTA

Focus on the Eastern Africa Region

Lucie Sewe

Introduction

In January 2021, African countries opened their markets for trading under the African Continental Free Trade Agreement (AfCFTA). This presented a new dawn and an opportunity to boost growth, reduce poverty, and broaden economic inclusion. Studies indicate that the AfCFTA could increase intra-African trade by 52% by 2022, thereby stimulating Africa's economic development and global positioning.¹ Civil society has emerged as a potentially significant factor in the implementation of the AfCFTA. Civil society refers to the communities and groups which function outside of the government to provide support and advocacy for issues in society, including promoting good governance.² The United Nations Agenda 2030 and its Sustainable Development Goals (SDGs) recognise civil society participation as crucial for trade agreements to attain global economic, social, and environmental standards.³ Notably, Civil Society Organisations (CSOs) are among the actors which played a key role in leading to the adoption of the AfCFTA agreement.⁴ While the economic benefits of implementing the AfCFTA remain a key discussion focus, analysts have observed that the concept of inclusivity and participation of democratic elements such as civil society, in shaping Member States' engagement in AfCFTA activities, is yet to be addressed. This paper seeks to highlight areas where CSOs could potentially contribute, drawing upon experiences in the Eastern Africa region. The discourse identifies key challenges and concludes with recommendations for going forward.

Rationale for Regional Integration in Africa

The need for regional integration in Africa emanates from the changing global economic and political environments, and the subsequent realisation that enhanced cooperation and integration constitute a potential response.⁵ African attempts at integration have operated within the overarching framework of accelerating the capacity for shared sovereignties and problem-solving in the economic and political realms. At the early stages of integration, Pan-Africanists such as Ghana's Kwame Nkrumah, propagated the promotion of political unity with reduced colonial fragmentation (continentalism), while countries such as Tanzania and Nigeria, proposed basing Africa's integration schemes on sub-regional organisations. This contest between continentalism and sub-regionalism was resolved by the establishment of the Organization for African Unity (OAU), when African countries opted for both continental institutions for security and political

integration in respect for sovereignty and territorial co-existence, alongside sub-regional economic institutions.⁶ The period 1960-1980 witnessed the emergence of major regional integration efforts that pushed forward the continent's economic integration agenda and articulated broad-based, all-inclusive Pan-African integration. These efforts resulted in the United Nations Economic Commission for Africa (UNECA), the East African Community (EAC), the Intergovernmental Authority on Development (IGAD) and the Southern Africa Development Community (SADC). Integration has recently gained acceptance as essential in facilitating economic and political development, adopting different dimensions which include streamlining mandates and developing closer political union.⁷

The AfCFTA presents opportunities that could result in better harmonisation of trade liberalisation and facilitation across the Regional Economic Communities (RECs), thus benefiting all Member States. Economic integration has been a key aspiration of African countries.⁸ It is an opportunity to allow free movement of goods, services, people and capital between national markets while overcoming divisions that impede the flow of goods and improving living standards. As African countries continue to promote regional integration, exclusion of key stakeholders features as one of the factors accounting for ineffectiveness. This calls for the participation of additional actors such as CSOs. Analysts also highlight challenges related to inadequate political will, the high incidence of conflict, the poor design of regional integration arrangements, and the multiplicity of the different institutions coupled with inadequate funding.⁹

Potential Support Lines for Civil Society Engagement in the Implementation of AfCFTA

CSOs are groups that function outside of government to provide support and advocacy for issues affecting society.¹⁰ These groups include academia, women groups, faith-based organisations, non-governmental organisations (NGOs), community-based organisations (CBOs) and youth organisations.¹¹ In a statement released in 1999, former Secretary-General of the United Nations, the late Kofi Annan, recognised the positive participation of civil society groups in various sectors and called for their stronger union with governments. He described this as "a powerful partnership for the future". In 2007, CSOs established the East African Civil Society

Organizations' Forum (EACSOF), primarily to build a critical mass and to foster confidence and capacity in articulating interests in the East African Integration Process.¹² EACSOF, which currently has a membership of over 400 CSOs, has made significant achievements in mobilising the masses toward political transition and opening up civil spaces for public participation. This includes initiating advocacy for the free movement of Africans in Africa and training member organisations on good governance, policy engagement and participation in trade negotiations.¹³

The demand for civil society participation in the negotiation and implementation of trade agreements has recently intensified following the growing and progressive mainstreaming of sustainable development issues in free trade agreements. Article 29 of the AfCFTA Agreement, calls upon State Parties *"to recognize the importance of technical assistance, capacity building and cooperation in order to complement the liberalization of services, to support State Parties' efforts to strengthen their capacity in the supply of services and to facilitate implementation of this Protocol."*¹⁴ In recognition of the significance of this Article, CSOs are among the actors which played an active role leading to the adoption of the AfCFTA agreement by participating in dialogues and providing feedback on diverse issues. As part of the process, The Department of Trade and Industry of the African Union Commission (AUC), organised the first annual AfCFTA Stakeholders Forum in Dakar in 2018, which committed to engage Member States in taking action for ratification and implementation of the AfCFTA. The forum attracted over 70 participants from African CSOs.¹⁵

As AfCFTA moves forward, it is envisaged that civil society can make significant contributions towards successful implementation by bringing citizens' concerns to public authorities, monitoring policy and programme implementation.

First, CSOs can provide diplomatic, technical and advisory support to follow up on the ratification of AfCFTA by countries that are undergoing their legislative processes. By October 2021, 38 out of the 54 signatories had submitted their instruments of ratification with the Chair of the AUC, while 41 countries had complied with their requirements at the national level.¹⁶ While ratification confirms Member States' commitment to the Agreement, any strain on diplomatic relationships can undermine its success. Political stability and good relationships among Member States are key ingredients for fostering trade. For example, the maritime conflict between Kenya and Somalia could develop into

further political tensions and conflict, affect trade relations between the two countries and reduce their commitment to AfCFTA. Regional integration not only addresses trade relationships but brings along an element of social cohesion. The maritime dispute presents an opportunity for civil society to mitigate such issues by working in partnership with the respective governments and regional organisations to support systems that avert further tension. Through the diplomatic frameworks, regional organisations have taken responsibility to mediate issues that cause tension among neighbouring countries in the region with participation from civil society, through advocacy, education and capacity-building.

Second, AfCFTA contains a significant component of awareness-raising, where CSOs could be useful as catalysts for raising visibility. Evidence suggests that several potential traders are unaware of the existence of AfCFTA. A study by the United Nations Conference on Trade and Development (UNCTAD) in 2018 in Malawi and Zambia, found several small-scale cross-border traders possessing limited knowledge of customs rules and trade regimes, yet they are heavily dependent on cross-border trade for their livelihoods.¹⁷ The study revealed that several active informal women traders were unfamiliar with a scheme known as Simplified Trade Regime (STR), which is operated by the 19-country Common Market for Eastern and Southern Africa (COMESA), of which both Malawi and Zambia are members. This was considered a knowledge gap that undermines the traders' capacity to conduct business effectively. The outcome of this study triggered the development of knowledge-building programmes by UNCTAD to support informal and small-scale cross-border trade and to strengthen their entrepreneurship skills. CSOs could contribute by supporting the development and dissemination of information tools to facilitate understanding of the AfCFTA and other trade initiatives through the media, websites, and newsletters and other channels.

Further, unexpected situations such as the outbreak of the COVID-19 pandemic, which affected cross-border movement, call for flexible and innovative training arrangements.¹⁸ COVID-19 had an impact on Africa's integration and challenged the level of preparedness of almost all countries in the world. As the pandemic gained momentum, several countries in Africa responded to the crisis by invoking national emergency powers.¹⁹ This trade disruption and the hardship caused by uncoordinated responses

to the pandemic could have been checked, and the effects of unilateral action ameliorated, by joint action between the government and the civil society, or at least by consultation. CSO engagement can help to supplement government efforts by educating communities and carrying out advocacy activities at the community level. NGOs whose mandate includes capacity-building, are instrumental in providing the necessary interventions to support the preparedness of communities, in various ways including training. CSOs can be instrumental in educating citizens about AfCFTA policies and their implications for day-to-day trade activities. They can also draw the attention of relevant policymakers by providing information on traders' experiences and issues.²⁰

Third, CSOs can demand accountability from governments in fostering intra-African trade, as well as monitor and support government efforts to ensure relevant national laws and policies follow the provisions and aspirations of the AfCFTA. They can also support governments to build the infrastructure and institutional capacity to facilitate an enabling trade environment within Africa. This includes identifying and assessing weaknesses in institutions that are responsible for implementing AfCFTA, while applying strategies to ensure there are appropriate checks and balances in place.²¹ For several years, civil society groups in Africa have contributed immensely to the efforts to support global visibility. In 2016, civil society called for the EAC countries to rethink the signature and ratification of the European Union-East Africa Community (EU-EAC) Economic Partnership Agreement (EPA), raising concerns on regional integration and intra-trade in Africa and weak trade relationships, among other issues. This was to articulate areas that disadvantaged some partner countries after critically analysing the content of the Agreement and drawing the attention of the concerned countries to the issues.²² In the final analysis, CSOs recommended the development of a mechanism to facilitate implementation and the tracking and monitoring of the Agreement by key stakeholders.

Key Recommendations for Successful Civil Society Engagement

The AU recognises that the initial implementation-level conditions for the success of the AfCFTA are heavily dependent on the willingness of individual Member States and their leaders to take action to implement the agreement and their capacity to coordinate and harmonise trade policies at the national and regional levels.²³

Implementation of the AfCFTA requires close collaboration between governments and CSOs to enhance good governance and accountability. The AfCFTA will need to define mechanisms for stakeholders to participate in all relevant forums that permit close follow-up, including reporting on the development of policies and practices. Structured and regular dialogues between governments, CSOs and regional organisations, should be held to make the process more efficient and effective by facilitating the presentation of information updates on the implementation of AfCFTA. Lessons from other trade agreements confirm the importance of consultative mechanisms to the success of trade agreements.²⁴

The emergence of the COVID-19 pandemic provides a learning experience for the AfCFTA and should stimulate governments to develop regional emergency plans and response mechanisms that can be applied to similar situations in the future. In addition to delaying implementation timelines, COVID-19 led to a redirection of human and financial resources to respond to the growing crisis.²⁵ AfCFTA, with support from the Member States, the AU and other regional institutions, can develop a tool for researchers and academics to collect and analyse data to facilitate relevant decisions. This includes strengthening data collection and analytical capacities at key border points where cross-border trade takes place. Another step to address such emergencies is for AfCFTA to set up an emergency fund that can be utilized for specific emergencies. The fund may draw on past experience to make accurate projections on costs. Civil society's responsibility would be to follow up and ensure the establishment of this fund, as well as support the development of measures to ensure accountability.

Conclusion

This article has discussed the role of civil society as an actor and valuable partner in the implementation of the AfCFTA. It has demonstrated the potential for various groups to support AfCFTA. As observed by Teunissen and Akkerman, successful integration requires strong commitment in implementing agreed arrangements, fair mechanisms to arbitrate disputes and equitable distribution of the costs and gains of integration.²⁶ Civil society engagement in the delivery of AfCFTA guarantees inclusion and participation and could also promote transparency, accountability and adoption of policies through advocacy.

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Endnotes

- 1 Afronomics Law (2019). A Case for Democratic Legitimacy of the AfCFTA Process. Available at: <https://www.afronomicslaw.org/2019/01/16/a-case-for-democratic-legitimacy-of-the-afcfta-process>. [Accessed 1 Jan 2022]
- 2 Study.com. (2021). What defined a civil society? Available at: <https://study.com/academy/lesson/what-is-a-civil-society-definition-examples.html>. [Accessed 1 December 2021]
- 3 Tralac.org. Identifying the role of civil society in the SADC EPA Available at: <https://www.tralac.org/blog/article/13387-identifying-the-role-of-civil-society-in-the-sadc-epa.html#:~:text=Civil%20society%20organisations%20have%20an%20important%20role%20to,enterprises%29%20that%20could%20take%20advantage%20of%20the%20opportunities>. [Accessed 4 January 2022]
- 4 Charles K. Vandyck. Implementing the Agreement Establishing the African Continental Free Trade Area (AfCFTA): The Role of Civil Society. Available at: <https://wacsi.org/implementing-the-agreement-establishing-the-african-continental-free-trade-area-afcfta-the-role-of-civil-society/>. [Accessed 4 January 2022]
- 5 African Capacity Building Foundation (2006). Challenges Facing Africa's regional Economic Communities in Capacity Building. Available at: <https://www.acbf-pact.org/what-we-do/how-we-do-it/knowledge-learning/occasional-papers/challenges-facing-african-regional#:~:text=Inadequate%20political%20will%20and%20commitment%20to%20the%20process%3B,integration%20process%20are%20factors%20accounting%20for%20the%20ineffectiveness>. [Accessed 4 January 2022]
- 6 Gilbert M. Khadiagala (2013). Pan-Africanism and Regional Integration: Routledge Handbook of African Politics. Available at: <https://www.routledgehandbooks.com/doi/10.4324/9780203070680>. [Accessed 4 January 2022].
- 7 Chingono, Mark & Nakana, Steve. (2009). The challenges of regional integration in Southern Africa. *African Journal of Political Science and International Relations*. 3. 396-408
- 8 Mugerwa, S. K, Anyanwu, J. C. Anyanwu and Conceição P. Regional Integration in Africa: An Introduction; *African Development Review*, Vol. 26, No. S1, 2014, 1–6
- 9 Sako, Soumana, (2006). Challenges Facing Africa's regional Economic Communities in Capacity Building, ACBF
- 10 Study.com. (2021). What defined a civil society? Available at: <https://study.com/academy/lesson/what-is-a-civil-society-definition-examples.html>. [Accessed 1 December 2021]
- 11 World Economic Forum (2018). Who and what is 'civil society'? Available at: <https://www.weforum.org/agenda/2018/04/what-is-civil-society/>. [Accessed 5 January 2022]
- 12 EACSOE. The voice of civil society in East Africa. Available at: <http://eacsof.net/>. [Accessed 5 January 2022]
- 13 Ibid
- 14 The African Union (2018). Agreement Establishing the African Continental Free Trade Area. Available at: <https://au.int/en/treaties/agreement-establishing-african-continental-free-trade-area>. [Accessed 15 October 2021]
- 15 Africa Review (2019). Civil Society Forum to launch AfCFTA consultative dialogue framework. Available at: <https://www.africanreview.com/finance/business/civil-society-forum-to-launch-afcfta-consultative-dialogue-framework>. [Accessed 4 January 2022]
- 16 The Trade Law Centre NPC (tralac) (2021). Building capacity to help Africa trade better. Available at: <https://www.tralac.org/resources/infographic/13795-status-of-afcfta-ratification.html>
- 17 UNCTAD (2018). Borderline: Women in informal trade want to do business legally and become more prosperous. Available at: <https://unctad.org/news/borderline-women-informal-trade-want-do-business-legally-and-become-more-prosperous>. [Accessed 20 October 2021]
- 18 Ibid
- 19 The African Union (2018). Agreement Establishing the African Continental Free Trade Area. Available at: <https://au.int/en/treaties/agreement-establishing-african-continental-free-trade-area>. [Accessed 15 October 2021]
- 20 EACSOE (2021). Civil society statement on the EU-EAC EPA. Available at: <http://eacsof.net/EACSOE/2016/08/15/call-for-african-states-to-reject-immunity-for-serious-crimes-by-african-civil-society-organisations-and-international-organisations-with-a-presence-in-africa/>
- 21 Ibid
- 22 Ibid
- 23 African Union (2020). Conditions for Success in the Implementation of the African Continental Free Trade Agreement. Available at: <https://au.int/en/documents/20200209/conditions-success-implementation-african-continental-free-trade-agreement>. [Accessed 4 January 2022]
- 24 Xu, Jia, The Role of Civil Society in EU Preferential Trade Agreements (January 31, 2017). European Society of International Law (ESIL) 2016 Annual Conference
- 25 Konrad-Adenauer-Stiftung (2020). The Midpoint Paper Series N°1/2020. e. V.
- 26 Jan Joost Teunissen and Age Akkerman (2005). (editors). *Africa in the World Economy. The National, Regional Challenges*, 2005. P. 148