

Are non-governmental stakeholders really participating in the negotiations?

Davina Makhan, dm@ecdpm.org

THERE IS A STRONG CALL for non-governmental stakeholder participation in the trade negotiations and this is specifically included in the Cotonou Agreement. With a few months to go before the cut-off date of 31 December 2007, have civil society stakeholders, professional bodies and parliamentarians really been involved in the negotiations?

► Davina Makhan, junior programme officer in the ACP-EU Economic and trade cooperation team at the European Centre for Development Policy Management (ECDPM).
www.ecdpm.org

A complete and fully referenced version of this article is published on the internet (in French only):
www.international-reseaux.org

HAVING AGREED on the need to negotiate and to ratify the Economic Partnership Agreements (EPAs) by the end of 2007, the ACP Group of countries and the EU also agreed within the framework of the Cotonou Agreement to include civil society as a whole in the ACP-EU cooperation process. Now that the parties have just concluded the progress review of negotiations stipulated in Article 37.4 of the Cotonou Agreement, what assessment can be made of this process? And more specifically, what has been the participation of members of civil society, professional bodies and parliamentarians in the process?

An imbalanced participation. With regard to ACP countries, the level of participation of non-governmental stakeholders and parliamentarians varied from one region to another. Although, some effort is still required, the involvement of Caribbean civil society in the EPA negotiation process seems to have been relatively effective and was recently commended. The last ministerial conference held in the Pacific region also lauded the contribution of non-governmental stakeholders to ensuring that the characteristics and concerns of the region were duly taken into account by the European side. African regions negotiating an

EPA are, however, recording a rather mixed result for structural, organisational, and financial reasons as well as due to capacity and information constraints. In spite of efforts made, it seems that the effective participation of non-governmental stakeholders in the negotiation process and the consideration of their recommendations were limited both at the national and regional level. Here again, it is advisable not to generalise. The mobilisation of the West African farmers' organisations has indeed been quite remarkable. Similar initiatives have developed over the last few months across the continent.

Beyond the participation of non-governmental stakeholders, it is their real ownership of the process which is crucial. It is self-evident that one does not go without the other. Ownership cannot be achieved without the involvement of stakeholders in negotiations and their (pro) active participation in same. Furthermore, this is recognised by the ACP Group negotiation mandate, which stipulates that *"the involvement of all the interested parties in the negotiation process and public opinion's support of the negotiations and their results; [and] the monitoring of negotiations by public opinion, especially at the parliamentary level"* are theoretically essential to establishing the legitimacy of the EPAs.

Many different calls... But the fact remains that with just a few months to go before the supposed conclusion of the negotiations, the voices rising against these agreements and pointing to the poor participation of the main EPA stakeholders are increasing day by day. Moreover, while calls for an extension of the deadline for the conclusion of negotiations have quietened down at ACP government level, they continue to be heard at civil society and private sector level. Recent examples are those of Barbados and Uganda. Conversely, the Namibian beef

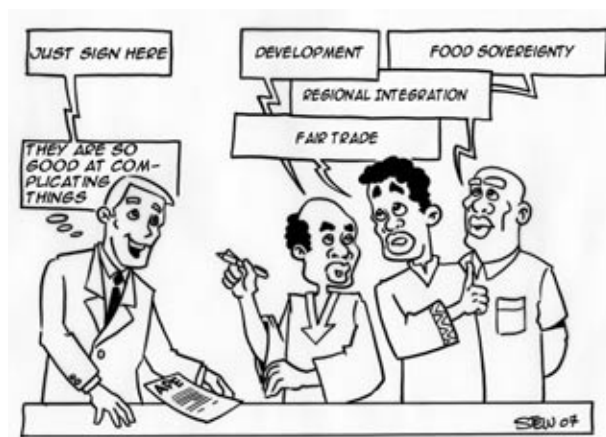
industry is highly in favour of an early conclusion of negotiations in order to preserve its access to the European markets. Such a call is however quite atypical in the barrage of "anti-EPA" calls emanating from ACP and European civil society¹. The impact on Ghanaian parliamentarians of a recent OXFAM and Third World Network report should particularly be noted in this respect. Following the presentation of the conclusions of this report to the Ghanaian parliamentarians, the latter were unanimously convinced of the advantages of the improved generalised system of preferences (GSP+)² as an alternative to the EPAs.

On the EU side, the European parliamentarians sitting in the International trade commission have paid serious attention to the EPA process and appealed to the European Commission to ensure that development objectives are really at the centre of the negotiation with the ACP region. They also expressed their concerns with regard to the lack of genuine democratic debate in most of the ACP countries. Last May, the European Parliament further asked the Commission to be more flexible with the ACP Group of States and soften the conditions for the signature of these agreements for those countries, considering the *"delay experienced in the negotiation and lack of preparation of ACP countries"*.

...that remained unanswered. The assessment of the EPA negotiations as provided for in Article 37.4 of the Cotonou Agreement was specifically aimed at *"ensuring that [no] deadline extension was necessary for the preparations or negotiations"*. The opportunity was thus given to the parties to assess the progress made and problems encountered in each EPA regional grouping and in its member countries and, if necessary, to change

1. See www.acp-eu-trade.org

2. See page 12.



the approach in order to reach a new and truly development-centred trade regime between ACP countries and the EU. Subjecting not only the content but also the process of the negotiation to this exercise would have helped to build a real consensus around these agreements.

However, the joint review of the EPA negotiation process did not involve a wide and extensive consultation of all the stakeholders, despite the fact that it was advocated by the ACP Council of Ministers' meeting held in May 2006 and supported by the European Parliament and some EU Member States. Although this joint review was scheduled to take place in 2006, the parties were only able to conclude this exercise during the ACP-EU Council of Ministers' meeting held on 25 May 2007, that is to say mere months before the deadline of 31 December 2007. Documents prepared for the joint review only describe the process and do not identify concrete measures to solve the numerous problems and constraints that were raised by the various internal and independent assessments. The question as to what will happen to the ACP-EU trade regime if the EPAs are not concluded has furthermore been circumvented. If the ACP negotiators have chosen to reaffirm their desire to finalise the negotiations by the end of 2007, the European Commission's pressure almost certainly contributed to this decision.

It is thus difficult to see how the non-governmental stakeholders will be reassured. In such a context, and while the ACP negotiators have reiterated their commitment and their political will to conclude negotiations at the right time (provided that the concerns of member States are taken into consideration by the EU), there is a real risk that a hasty conclusion of the EPAs may lead to their rejection by non-governmental stakeholders and parliamentarians (who are responsible for the ratification of the agreements at the national level). This risk must not be underestimated. The success of these agreements will indeed depend on the level of confidence which the people and the main stakeholders will place in them. ■

Who is negotiating? Where, when and how?

LOT HAS BEEN SAID about the EPAs, but what do we know about the negotiation mechanisms? In concrete terms, who is negotiating? Where are the talks being held? According to what agenda? An insight into the process...

Two negotiation phases can be distinguished. Firstly, the "all ACP-EU" phase, involving technicians, ambassadors and ministers from all ACP and EU member countries who met at three levels to discuss general issues. Then, since October 2003, the European Commission has been discussing the actual content of the trade agreements with each of the six ACP regional groupings. This is the "region by region" phase of the negotiation process.

Let us take the example of West Africa in order to understand better who is involved in this second phase of negotiations.

The negotiation process is defined in a «road map» and is based entirely on mandates given by the EU Council of Ministers to the European Commission on the one hand, and by the Heads of State of the sixteen West African countries to the ECOWAS Commission, assisted by the WAEMU Commission on the other. Two political statutory bodies ensure that the mandate is respected and set up negotiation positions. These are the ministerial monitoring committee (Ministers of Commerce, Economy and Finance) and the ECOWAS Council of Ministers. The latter fixes the mandates, gives guidance to and appraises progress made in the negotiations.

Discussions are then held at three levels. At the bottom, there are technicians and thematic technical groups that study each EPA point. These include experts on the issues under discussion, officials (of the EU, ECOWAS, and WAEMU and of member States), civil society representatives (NGO and farmer organisations) and private sector stakeholders. They are divided into several working groups and their activities are based on impact studies, expert appraisals, etc. As the deadline for the signature of the agreement is

fast approaching, and in view of the delay recorded in negotiations at the time of writing this article (July 2007), they have stepped-up the frequency of their meetings. These European and African technicians are working to prepare joint texts. The outcome of their deliberations, in particular the points of disagreement, are then forwarded to the next level i.e. the senior officials' level. This stage is supposed to be less technical and more political. The senior officials, who meet more rarely, adopt conclusions based on the technicians' work. They then hand over to the chief negotiators*, who make the final arbitrations, finalise the discussion and give new guidelines.

There is also a regional preparation Task Force (RPTF), a group that ensures consistency between the EPA and development funding. The task force includes negotiators of the two parties and the EU member countries.

All the meetings are alternately held in Brussels and Africa.

All this seems somewhat complicated... In fact at times, the distribution of roles and negotiation mandates are vague, between the ECOWAS and its member States. As the European Commission is the sole EU negotiator from the technical to the final decision-making level, it is of course much easier. This exacerbates the imbalance observed in the negotiation capacities of the two parties. Once the agreement is drafted, it will be validated by the European authorities, and is then to be ratified by the national parliaments of each ACP country. But, at this point in time, it is not certain that they shall do so; they frequently show considerable reticence regarding these agreements. This point has not been properly dealt with, and its outcome is far from being certain.

The editing team gds@inter-reseaux.org

* The two chief negotiators in West Africa are the presidents of ECOWAS and WAEMU Commissions: Mohamed Ibn Chambas and Soumaïla Cissé.