

# Discussion Paper

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## **Civil Society Participation in EPA Implementation**

**How to make the EPA Joint CARIFORUM-EC  
Consultative Committee Work Effectively?**

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## Abstract

Civil society participation in decision-making processes is a key emerging norms to greater democratic accountability in developing countries. Trade policy negotiations, implementation and monitoring are a case in point. In this respect, the CARIFORUM - EU economic partnership agreement (EPA) is a pioneering agreement that institutionalises civil society engagement through the innovative Joint CARIFORUM-EU Consultative Committee. The paper raises key questions and issues pertinent to the effective functioning of the Consultative Committee and provides preliminary recommendations for its effective functioning. In particular, the paper stresses that the Consultative Committee will work effectively only if the participants have the capacity and expertise to make substantive input to the EPA implementation process; (ii) the membership of the Consultative Committee is based on representative participatory processes within CARICOM/CARIFORUM and EU governance structures; and (iii) the work of the Committee is based on the input and feedback of the broader civil society.

## Abbreviations

|             |   |
|-------------|---|
| ACP         | African, Caribbean and Pacific                            |
| AU          | African Union   |
| BEUC        | European Bureau of Consumers                              |
| CABA        | Caribbean AgriBusiness Association                        |
| CAIC        | Caribbean Association of Industry and Commerce            |
| CAFRA       | Caribbean Association for Feminist Research and Action    |
| CARDI       | Caribbean Agricultural Research and Development Institute |
| CARICOM     | Caribbean Community                                       |
| CARIFORUM   | Caribbean Forum   |
| CCL         | Caribbean Congress of Labour                              |
| CEC         | Caribbean Employers Confederation                         |
| CEDA        | Caribbean Export Development Agency                       |
| CISP        | Caribbean Integration Support Programme                   |
| COMESA      | Common Market for Eastern and Southern Africa             |
| COPA-COGECA | European confederation of agriculture                     |
| CPA         | Cotonou Partnership Agreement                             |
| CPDC        | Caribbean Policy Development Centre                       |
| DR          | Dominican Republic  |
| EAC         | East African Community                                    |
| EC          | European Commission                                       |
| ECDPM       | European Centre for Development Policy Management         |
| EDF         | European Development Fund                                 |
| EESC        | European Economic and Social Committee                    |
| ETUC        | European Trade Unions Confederation                       |
| EPA         | Economic Partnership Agreement                            |
| EU          | European Union  |
| IIR         | Institute of International Relations                      |
| MERCOSUR    | Mercado Común del Cono Sur (Southern Cone Common Market)  |
| NAFTA       | North American Free Trade Agreement                       |
| NGO         | non-governmental organisation                             |
| NSA         | non state actors  |
| PAHO        | Pan American Health Organization                          |
| SADC        | Southern African Development Community                    |
| WTO         | World Trade Organization                                  |



## 1. Civil society matters

While civil society participation in decision-making processes is not an entirely new phenomenon, in the past decade, there have been new developments both in the degree of citizen participation and the realms in which they participate. One of these new areas is trade policy. Traditionally, trade negotiations were solely the responsibility of government actors.<sup>1</sup> Several factors account for and necessitate this shift towards the inclusion of non-state actors in trade policy formulation, implementation and monitoring. First, trade, perhaps more than most other policies, covers a wide range of issues. The expanded scope of multilateral and bilateral trade agreements goes beyond goods to include services, intellectual property and investments,<sup>2</sup> as well as a number of 'behind the border' regulatory issues (such as standards, procurement, competition, etc.), that can potentially have far-reaching effects on several aspects of the lives of citizens. Second, the complexity and expanded scope of trade policy necessitate input from non-traditional actors.<sup>3</sup> Third, an awareness of the emergence of norms as democratic participation, accountability, transparency and the empowerment of citizens in development policy has led to increasing demands for citizen participation in trade policy.<sup>4</sup> Consequently, the new generation of agreements are increasingly considering processes for engaging civil society. Among these are several regional integration arrangements (e.g. MERCOSUR<sup>5</sup> and COMESA<sup>6</sup>, EU, AU<sup>7</sup>), NAFTA and the CARIFORUM-EU EPA. The latter is unique because it is the only EU or CARIFORUM trade agreement that institutionalises civil society engagement. Civil society participation is facilitated through the innovative Joint CARIFORUM-EU Consultative Committee, hereinafter referred to as the Consultative Committee.

The paper aims to raise key questions and issues pertinent to the effective functioning of the Consultative Committee and to provide preliminary recommendations for its effective functioning. The paper therefore poses the following questions: What are the expectations of the Consultative Committee? What are some of the key challenges relating to its establishment and functioning? And what are some key requirements for the Consultative Committee to work effectively? The paper concludes that the Consultative Committee will work effectively if the participants have the capacity and expertise to make substantive input to the EPA implementation process; the membership of the Consultative Committee is based on representative participatory processes within CARICOM/CARIFORUM and EU governance structures; and the work of the Committee is based on the input and feedback of the broader civil society.

The paper is organised as follows: first a background and evolution of civil society participation in ACP-EU relations; second, an outline of the governance structure of the EPA, i.e. the institutional mechanisms; third, an examination of the key functions, composition and state of play towards the establishment of the Consultative Committee, fourth, some key considerations for an effective Consultative Committee; fifth, stakeholders' expectations of the Consultative Committee; sixth, some challenges envisaged for an effective Consultative Committee and finally, some preliminary recommendations and the way forward for an effective Consultative Committee.

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<sup>1</sup> Keohane, R. and J. S. Nye. 2001. The Club Model of Multilateral Cooperation and Problems of Democratic Legitimacy. In *Power and Governance in a Partially Globalized World*, edited by R. Keohane. 2002, 219 – 244. London: Routledge.

<sup>2</sup> Robertson, D. 2000. Civil Society and the WTO. *The World Economy* 23 (9): 1119-1134.

<sup>3</sup> Curtis, J. M. 2000. Involving NGOs in Trade Policy Negotiations. *Optimum* 30 (2): 60. <http://www.optimumonline.ca/article.phtml?id=61>.

<sup>4</sup> Naidoo, K. 2003. Civil Society, Governance and Globalisation. Paper presented at the World Bank headquarters in Washington, D.C., 10th February. <http://www.civicus.org/new/media/WorldBankSpeech.doc>.

<sup>5</sup> MERCOSUR - Common Market of the South

<sup>6</sup> COMESA - Common Market for Eastern and Southern Africa

<sup>7</sup> AU - African Union

## 2. Evolution of Civil Society Participation in ACP-EU Relations

The role of civil society in EU-ACP partnership is not new. The Lomé Convention was the framework that historically shaped EU-ACP relations starting from 1975 when the Lomé I was signed. It was not until Lomé IV, signed in 1990, that Non - State Actors (NSAs) were seen as legitimate players in the development process. NSA participation was mainly operationalized in the context of decentralised cooperation,<sup>8</sup> which made references to NSA engagement possible. Despite this new innovation in Lomé IV, it offered limited opportunities for NSA participation. The participation of NSAs in the framework of decentralised cooperation under the Lomé framework was principally instrumental in nature and NSA participation was primarily to ensure the successful completion of projects. The focus was therefore not on the empowerment of civil society per se but rather the implementation of policy.

The Cotonou Partnership Agreement (CPA) signed in 2000, revolutionised the concept of NSA participation in the policy process. Unlike the Lomé Conventions, where the project outcome gave meaning to the actors, in the CPA, the latter were pushed to the centre of EU-ACP dialogue. In the CPA, NSA participation is seen as fundamental to the cooperation arrangement. In fact, NSA participation is a legal requirement and is at the core of the development process. There are provisions for NSA participation in every area of cooperation: development cooperation and trade and political dialogue. Article 2 of the CPA establishes the participation of NSAs as a fundamental principle. Article 4 specifies the role and responsibility towards NSA and maintains that NSAs are to be informed and consulted on cooperation policies and strategies; provided with capacity building support; provided with financial resources and be engaged in the implementation of cooperation projects and programmes. The CPA also specifies what groups constitute NSAs, viz: the private sector, economic and social actors, and all forms of civil society.<sup>9</sup> While NSA participation was made very important in the CPA, the actual operationalisation of NSA participation on the ground has been plagued with problems.<sup>10</sup> The term NSA in the Cotonou Agreement made a clear distinction between the private sector, NGOs and other social and economic factors. By contrast In the EPA, the broad term civil society is used to refer to the wide array of NSAs. Civil society will therefore be used from here onwards.

## 3. Civil Society Participation in the EPAs Negotiations

Civil society participation in the EPA negotiations was problematic in the ACP. In the CARIFORUM region, while there were efforts at civil society consultation at both the regional and national levels, overall, participation was unbalanced. There was limited engagement and ineffective participation of labour and NGOs.<sup>11</sup> Private sector participation was dominated by the more traditional and organised sectors (rum, sugar and bananas) and tourism. Medium and Small Size Enterprises, for example, which are generally in

<sup>8</sup> European Commission. Development and Relations with African, Caribbean and Pacific States. The Lome Convention. [http://ec.europa.eu/development/geographical/cotonou/lomegen/lomeitoiv\\_en.cfm](http://ec.europa.eu/development/geographical/cotonou/lomegen/lomeitoiv_en.cfm)

<sup>9</sup> See for example, European Centre for Development Policy Management. 2003. The Cotonou Agreement: A User's Guide for Non State Actors. Brussels, Belgium: ACP Secretariat.

<sup>10</sup> See for instance ECDPM. 2003. The Cotonou Agreement: A user's guide for non-state actors, Brussels: ACP Secretariat. [www.acpsec.org/en/nsa/nsa\\_users\\_guide\\_en\\_rev1.pdf](http://www.acpsec.org/en/nsa/nsa_users_guide_en_rev1.pdf)

<sup>11</sup> See for example, Montoute, A. 2009. Civil Society Participation in Trade Negotiations: A Caribbean Case Study. PhD diss., University of the West Indies.

the manufacturing, commercial, services and agricultural sectors were not as engaged.<sup>12</sup> In the African region, overall, civil society participation was unbalanced across sector and country, and largely limited. In the East and Southern African regions, while civil society collaborated with national governments, the former were of the view that they were unable to influence the negotiations.<sup>13</sup> In the EAC region, unlike the CARIFORUM region, where the traditional exporters played an important role in the negotiations, this was less prominent.<sup>14</sup> In the SADC region, there seemed to have been linkages between civil society and the government, however, this relationship was not developed sufficiently. In the Pacific Region, civil society faced numerous challenges and were unable to participate effectively.<sup>15</sup> Effective participation in the EPAs negotiations in ACP was hindered by several factors, including: tardiness in receiving information; the technical nature of the information on the negotiations; limited access to information; inadequate formalised structures for dialogue; insufficient feed back mechanisms between government and civil society; lack of financial resources and expertise on trade matters and inadequate time to prepare for meetings and consultations.

We conclude that there were two broad areas of tension between government and civil society based on debates that surrounded civil society, in particular, NGO participation in the EPAs negotiations: the first one relating to the philosophy and the other to the process of the negotiations. On one hand, governments were negotiating agreements framed within a neo liberal paradigm and on the other, civil society were opposed to trade liberalisation. Regarding process, there seem to have been two perspectives of participation: the liberal democratic/representative and participatory view of democracy, held generally by decision makers and civil society respectively. In the liberal democratic view, civil society participates in decision-making primarily through representatives elected to government. In participatory democracy, direct civil society participation in policymaking is desirable. The EU has made strides towards greater inclusion of civil society in the EPA process, although DG Trade did not engage civil society beyond information sharing exercises in the negotiations. The CARIFORUM - EU Consultative Committee is therefore an attempt to facilitate greater engagement of civil society participation in the EPA implementation process. The Consultative Committee will work along with and advise the work of other EPA governance bodies<sup>16</sup> in the implementation process. These bodies are outlined below.

## 4. The Governance Structure of the CARIFORUM – EU EPA

The implementation of the EPA is managed and supervised by the Joint CARIFORUM – EC Council, which is supported in its operation by the CARIFORUM – EC Trade and Development Committee. It is also informed by two committees: the CARIFORUM – EC Parliamentary Committee and the CARIFORUM – EC Consultative Committee. Additionally, the Agreement provides for the establishment of the Special Committee on Customs Cooperation and Trade Facilitation through which the parties are to jointly monitor

<sup>12</sup> See for a discussion of private sector engagement in the EPAs negotiations in CARIFORUM and the EAC Regions, Ramdoo, I and A. Walker. 2010. Implementing the Economic Partnership Agreement in the East African Community and the CARIFORUM regions: What is in it for the private sector? ECDPM Discussion Paper 104. Maastricht: ECDPM

<sup>13</sup> Mambara, J., L. 2007. An Evaluation of Involvement of Southern Africa's in EPA Negotiations to Date. Trade and Development Studies Centre.

<sup>14</sup> Ramdoo, I and A. Walker. 2010. Implementing the Economic Partnership Agreement in the East African Community and the CARIFORUM regions: What is in it for the private sector? ECDPM Discussion Paper 104. Maastricht: ECDPM

<sup>15</sup> Mambara, J., L. 2007. An Evaluation of Involvement of Southern Africa's in EPA Negotiations to Date. Trade and Development Studies Centre.

<sup>16</sup> The roles and functions of the EPA governance structures are extracted from the CARIFORUM EU Economic Partnership Agreement text

the implementation of commitments in the Agreement on Customs Facilitation. In particular, the function of each institution is as follow:

*The Joint CARIFORUM – EC Council*

The Joint CARIFORUM – EC Council is the highest decision-making body in the EPA governance structure. The Council comprises members of the Council of the European Union, members of the European Commission and representatives of CARIFORUM States. This body is responsible for overseeing the operation and implementation of the Agreement and ensuring that the objectives of the Agreement are met; examining major issues arising out of the Agreement, including issues that are bilateral, multilateral and international in nature which may affect trade between the parties and examining proposals and recommendations for the review of the Agreement.

*The CARIFORUM-EC Trade and Development Committee*

The members of this committee are representatives of both parties at senior level positions. This committee is responsible for: assisting the Joint Council with its duties; the implementation and application of the Agreement; taking action to avoid and resolve disputes among members; taking action to facilitate trade, investment and business opportunities among the members; set up committees to deal with matters under their purview; discussing issues relating to regional integration; selecting customs safeguard, balance of payment, development, intellectual property, technology transfer, geographical indications and mediation and arbitration matters.

*The CARIFORUM-EC Parliamentary Committee*

The membership consists of the European parliament the CARIFORUM State Legislatures. Their duties are to advise the CARIFORUM - EC Trade and Development Committee.

*The CARIFORUM – EC Consultative Committee*

The members are civil society representatives from the Caribbean and the EU, whose role is to assist and advice the Joint Council and the Trade and Development Committee (see below).

*The Special Committee on Customs Cooperation and Trade Facilitation*

This committee is to monitor the implementation and administration of the Chapter on Customs and Trade Facilitation; carry out the tasks set out in the protocol on rules of origin; facilitate consultations between the parties on the obligations under the Protocol on Mutual Administrative Assistance in Customs Matters; enhance cooperation and dialogue between the Parties on custom related matters; discuss technical assistance issues and monitor developments related to regional integration as it relates to customs matters.

The Joint CARIFORUM – EU Council met in May 2010 and established its rules of procedures. The Joint CARIFORUM - EU Trade and Development Committee and the Joint CARIFORUM EU Parliamentary Committee met on June 9 – 10 and 15 - 16 respectively. There was no progress regarding the Consultative Committee at the recently held meeting of the Trade and Development Committee, therefore it is still not clear when the Consultative Committee will be formed, although there are hopes that it will be established by the end of 2011. The upcoming section reviews the roles and functions of the Consultative Committee, outlines who can participate and provides an update on the state of play in its establishment.

## 5. The CARIFORUM-EU Consultative Committee: Functions, Composition and State of Play

Article 232 of the EPA Agreement establishes the roles and functions and participation in the CARIFORUM - EU Consultative Committee. The functions of the Consultative Committee are to assist the Joint CARIFORUM - EU Council promote dialogue and cooperation between representatives and organisations of civil society, including the academic community, and social and economic partners about the economic, social and environmental aspects of the Agreement; make recommendations to the Joint CARIFORUM - EU Council and the CARIFORUM - EU Trade and Development Committee; make recommendations to the EC and CARIFORUM for sharing and disseminating information on environmental matters; and be informed of the work of the Committee of experts on consultations on the social issues provisions in the EPA Treaty.

The Consultative Committee may be invited to contribute to the work of the Joint CARIFORUM-EU Council or it may use its own initiative and make recommendations to the Joint CARIFORUM-EU Council.

CARIFORUM and EU representatives are to attend the meetings of Consultative Committee. The Consultative Committee shall adopt its rules of procedure together with the Joint CARIFORUM-EU Council. The Joint CARIFORUM-EU Council is to decide on participation in the Consultative Committee.

The Joint Council decision of November 10<sup>th</sup> 2010, defines civil society as associations, foundations, and other private institutions, which have a non-profit making aim of international utility and which are able to contribute expert information, or advice in matters covered by the Agreement. The requirement of a non-profit aim may be waived in the case of academic institutions, with specific trade related expertise.

Organizations that fall under one of the above categories and are located in either the EU or CARIFORUM may attend meetings of the Consultative Committee as observers. The Joint Council decision provides for forty members of whom twenty-five are to be from CARIFORUM and fifteen from the EU. On each side, the members are to comprise of the following: social and economic partners; academia, including independent and research institutions, and other non-governmental organisations, inclusive of development and environmental organisations.

There have been proposals for the composition of the Committee from the EU Party and CARIFORUM States. On the CARIFORUM side, a meeting of the CARIFORUM Legal and Policy officials on Institutional Matters and Dispute Settlement under the EPA, proposed a list of representatives for participation in the Consultative Committee from the following sectors: labour, employers, the private sector, gender, academia, youth, the environment, tourism, culture and other services. The meeting also proposed that 25 to 30 standing representatives should be equitably drawn from CARIFORUM States and proposed bodies from which the representatives might be drawn, as outlined in Table 1. This list has not been adopted and it has been reported that CARIFORUM will work with the EESC to finalise the list. The EU is more advanced in the process however as it has already identified the basic composition of representatives from civil society, outlined in Table 2.

The preparation for the Consultative Committee on the EU side is being coordinated by the European Economic and Social Committee (EESC), which will function as the Secretariat of the Consultative Committee in the first year. The EESC is a consultative body within the EU governance structure representing organized civil society from the social and economic sectors. The nine socio-economic organisations were proposed by the EESC, out of the fifteen decided on by the EU Council decision of 16 November 2010. The EESC is also organizing the selection process for academics and NGOs.<sup>17</sup> The process has been the reverse in CARIFORUM where the list of proposed participants in the Committee was proposed by CARICOM. The absence of a corresponding civil society coordinating mechanism in CARIFORUM has made this process difficult.

The establishment of the Consultative Committee, selection of the membership and the establishment of rules of procedures do not guarantee that the Committee will function effectively, i.e. that the participants will be able to input substantively in the implementation process, add value to the process and influence the decision making process. The following section highlights some key considerations for the effective functioning of the Consultative Committee.

**Table 1. CARIFORUM Proposal for the Composition of the Consultative Committee**

| <b>Sector</b>   | <b>Representatives</b>   |
|---|--|
| Labour  | The Caribbean Congress of Labour (CCL) along with a representative identified by the Dominican Republic (and one by Haiti, in the event that it signs the Agreement)   |
| Employers   | The Caribbean Employers Confederation (CEC) with a representative identified by the Dominican Republic (and one identified by Haiti in the event that it signs the agreement)  |
| The Private Sector  | The Caribbean Association of Industry and Commerce (CAIC) and two others under the foregoing formula if the Dominican Republic and Haiti are not represented on the CAIC   |
| Gender  | The Caribbean Association for Feminist Research and Action (CAFRA) with a representative identified by the Dominican Republic (and one identified by Haiti in the event that it signs the agreement)                                 |
| Academia  | A single representative drawn from the region's Universities and research institutions under a rotation formula implemented to ensure the widest participation across the different language-speaking groups of the CARIFORUM States |
| Youth   | The Caribbean Youth Conference, with the Dominican Republic and Haiti nominating their choice of representative, if appropriate  |
| Culture   | A suitable representative that will be nominated   |
| Tourism   | The Caribbean Tourism Organization   |
| Other Services  | A suitable representative that will be nominated   |
| Agriculture (including Fisheries and Forestry)  | A suitable representative that will be nominated   |
| Permanent observers to the Committee could be the Caribbean Agricultural Research and Development Institute (CARDI), the Caribbean AgriBusiness Association (CABA), the Caribbean Policy Development Centre (CPDC), the Pan American Health Organization (PAHO) and the Caribbean Export Development Agency (CEDA). |  |

<sup>17</sup> King, B. EU – Cariforum Consultative Committee. ACP Follow Up Committee, European Economic and Social Committee

**Table 2. EU membership to the Consultative Committee**<sup>18</sup>

| Civil society categories           | Representatives   |
|------------------------------------|---|
| 9 socio-economic partners          |   |
| - 3 employers' organisations       | One seat for the European Economic and Social Committee for a member of the Employers' group; one seat for Business Europe and European Services Forum (alternate seat) and one seat for EuroChambers and EuroCommerce (alternate seat)   |
| - 3 trade union organisations      | One seat is for the European Economic and Social Committee for a member from the employees' group and two seats for the European Trade Unions Confederation (ETUC)  |
| - 3 other socio economic interests | One seat for the European Economic and Social Committee from the other interests group, one seat for the European confederation of agriculture (COPA-COGECA) and one seat for the European Bureau of Consumers (BEUC)   |
| 4 representatives of NGOs          | The European Economic and Social Committee is responsible for establishing the rosters of interested NGOs and academics that are interested in being members of the Consultative Committee. A website has been established for online applications to be made by interested organizations. The organisations registered in the rosters will subsequently vote for their representatives in the Consultative Committee. The organisations, which are not be elected or that do not want to be elected as members of the Consultative Committee may participate as observers. |
| 2 representatives of academia      |   |

## 6. Key Considerations for an Effective Consultative Committee

First, the work of the Consultative Committee must be of practical added value to the implementation process. The Consultative Committee could play three key functions. The first could be to act as a *sounding board* for the Joint Council and Trade and Development Committee. Views expressed by the Consultative Committee would inform the EPA decision-makers about major concerns regarding the implementation of the EPA, who would thus feel the pulse of society regarding the EPA and possible ways forward in its implementation. The second possible function is to provide *technical support and advice* to the Joint Council and Trade and Development Committee. The range of civil society stakeholders represented in the Consultative Committee could indeed provide invaluable specific information and technical advice on various monitoring and implementation aspects of the EPA. The third function of the Consultative Committee could however mainly be a *public relation exercise* for the EPA decision-makers. That is, while the Consultative Committee would meet regularly and produce recommendations, the Joint Council and Trade and Development Committee may chose to pay only lip service to civil society consultation, as a way to channel civil society concerns and increase the legitimacy of the Joint Council decisions.

<sup>18</sup> King, B. EU – Cariforum Consultative Committee. ACP Follow Up Committee, European Economic and Social Committee

Second, the issue of representativeness is a key consideration for the effective functioning of the Consultative Committee, i.e., the degree to which the members genuinely represent the interests of the populations of the CARIFORUM region and EU who will be affected by the agreement. The element of representativeness is necessary for the Consultative Committee to have the required legitimacy to function as a genuine participatory CARIFORUM and EU civil society mechanism.

Third, the capacity of organisations to participate substantively is another important consideration for an effective Consultative Committee. Capacity covers several areas: access to and ability to produce relevant research, financial and human resources/skills, and providing relevant value added research. The latter is particularly useful because this has proven to be very effective in influencing decisions. Funding arrangements for civil society participation in the Consultative Committee is to be established by the Trade and Development Committee. This funding will be made available for standing members to enable them to perform their duties in Committee. This raises several questions: what kind of capacity does civil society need to participate effectively in the Consultative Committee? Will the funding provided build the capacity needed to participate effectively? Besides funding, the issue of access to information will be key. For instance, how cooperative will the Joint Council and Trade and Development Committee be in sharing information with the Consultative Committee and responding to its queries? Moreover, how will civil society actors prepare and coordinate themselves? There is a need to put in place effective coordination mechanisms (perhaps through electronic platforms) to share information and stimulate exchanges prior to formal meetings of the Consultative Committee.

Fourth, the relationship between the Consultative Committee and other EPA governance structures is also important to consider because the Consultative Committee is not able to make decisions. The work of the Committee must be fed into the Trade and Development Committee, the Joint Council and the Joint Parliamentary Committee to affect decision-making process. The Agreement outlines the manner in which the Consultative Committee is to relate to other bodies in the EPA agreement. Both the Joint Council and the Trade and Development Committee may invite the Consultative Committee to inform them on the work of the respective committees and representatives of the EC and CARIFORUM parties will attend Consultative Committee meetings. The CARIFORUM - EC Trade and Development Committee and the Joint Council may decide to admit observers on a permanent as well as on an ad hoc basis. This provides additional space for civil society engagement. One's presence in a room with and articulation of views to decision makers is useful but not sufficient to ensure effective contribution from the Consultative Committee. Transparent and accountable structures for reporting and receiving feedback are necessary to ensure that views expressed can input the policy process.

Not only it is essential for the Consultative Committee to relate effectively to other EPA governance bodies, but it is equally important for the Consultative Committee to relate to the broader civil society in a transparent manner. There is need therefore for effective structures for the Consultative Committee to seek input from and communicate its work to the broader civil society. This is important to ensure that the work of the Consultative Committee reflects the experiences of the CARIFORUM and EU populations with the EPA agreement. We sought the perspectives of stakeholders on their expectations of the Consultative Committee and challenges envisaged with the establishment and functioning of the Committee, These are provided below.

## 7. Stakeholders' Perspectives

### 7.1. Expectations of the Consultative Committee

The array of views expressed on the Consultative Committee can be summarised as follows:

- (i) A framework for civil society to input into the trade policy process. In the case of the private sector in particular, the Consultative Committee is seen as a space where the former will be able to raise concerns and make recommendations to facilitate trade between the EU and CARIFORUM to make the agreement useful to their membership. Some concrete ways in which this is to be done are as follows:
  - ensuring that the private sector benefit from the technical cooperation elements of the agreement;
  - ensuring existing barriers are removed for effective market penetration;
  - promoting market research;
  - supporting trade initiatives for the improvement of the quality of goods and services;
  - pursuing information on market opening opportunities;
  - seeking the experiences of other members of the private sector to see how the agreement works on a practical level for example, the outcome of mutual recognition agreements and how the latter can be successfully utilized;
  - advising on possibilities for the expansion and/or review of the Treaty
- (ii) A feedback mechanism to provide two - way communication between civil society and policy makers where civil society can be directly engaged in the implementation of the Agreement rather than through intermediaries like a public sector agencies. Therefore the Committee is seen as a means of bridging the information gap that existed during the EPA negotiations and ensuring this does not happen again during the implementation process. Respondents who expressed the absence of dialogue during the EPA negotiations saw the Consultative Committee as particularly useful for this purpose.
- (iii) A monitoring facility to ensure that the EPA functions as laid out in the Agreement, especially, the social and environment provisions of the Treaty. For example, civil society can make recommendations for developing indicators for EPA implementation and monitoring.
- (iv) A space to acquire information, express opinions, network, inform constituents and formulate advocacy strategies to collectively influence the EPA process.
- (v) A platform to discuss all socio-economic issues relevant to the integration of the Caribbean and EU within the framework of the EPA
- (vi) A mechanism for reinforcing or challenging the current neo liberal model of European development policy. It is perceived that the debates that will take place in the Consultative Committee may generate real alternatives to the current model or merely reinforce the existing framework.

Respondents noted existing challenges, related to the setting up of the Consultative Committee as well as challenges that may affect the effectiveness of a consultative Committee.

## 7.2. Challenges for Participating Effectively in the Consultative Committee

One of the major challenges that exists in the CARIFORUM region is the absence of a coordinating mechanism for the participation of various sectors of civil society actors in the Consultative Committee. This challenge includes CARICOM's participation deficit. There was a space for civil society participation at CARICOM Heads of Government Conference but this space no longer exists. Among efforts to address this participation deficit is the CARICOM Civil society project which has the aim of creating a mechanism to facilitate civil society participation at the CARICOM level. Another challenge is the Dominican Republic's unresolved political and institutional relationship to CARICOM. In April 2011, almost three years after the signing of the EPA, steps are now being taken to attempt to resolve CARIFORUM's governance challenges.<sup>19</sup> In addition and partly related to this challenge is the absence of a civil society coordinating body or forum at the CARIFORUM level. Although there are umbrella NGO, trade union and employers' organisation in various CARIFORUM states<sup>20</sup> and at the CARICOM regional, there is no CARIFORUM wide body that brings the various sectors together. This may partly explain why CARIFORUM has made so little progress in advancing the process for their side of the Consultative Committee. One stakeholder states that the lack of a cross - sectoral consultative structure within the CARICOM governance structure, results in regional agencies either handpicking persons or asking government departments to do so. A private sector stakeholder in CARIFORUM commented that although there have been discussions about the Committee at seminars; there has not been formal dialogue with the private sector on the issue. The absence of a regional body to adequately coordinate the interests and views of civil society will severely compromise the element of representativeness that is so critical to democratic participation and good governance.

Another challenge to effective participation is the capacity of organisations to make substantive input into the policy process. Funding is usually needed for building capacity. Many civil society organisations are heavily dependent on external funding to produce research and conduct capacity building exercises. Some NGO have resources to travel to meetings but do not possess the capacity or finances to conduct research. Fewer organisations have technical expertise and trade related capacity to participate in the Consultative Committee. One respondent surmised that even when funding is available there are challenges related to the capacity of some civil society organisations to report due to the stringent reporting requirements of the EU. This may hinder the degree to which civil society organizations are able to access this funding and many are not able to because they do not have the requisite experience. This may have repercussions for the effectiveness of some groups in the Consultative Committee. In some cases, organizations that represent the largest spectrum of constituents are not able to engage as a result of their inability to meet certain administrative requirements. Those who are able to meet the above requirements may not necessarily represent a wide constituency as others who are not able to. The tendency sometimes is to engage organizations that have a record of participating, which usually means the more formally established and traditional groups. Another challenge identified related to donor funding and the effect this may have on legitimacy of the recipient.

Having identified some of the key expected roles of and challenges that may hinder the effective functioning of the Consultative Committee; we conclude the paper with some tentative recommendations on the way forward.

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<sup>19</sup> See for more details, Errol Humphrey, Implementing the Economic Partnership Agreement: "Challenges and Bottlenecks in the CARIFORUM Region

## 8. Recommendations on the Way Forward

Following consultation, below are some recommendations for an effective Consultative Committee. One of the most important elements for an effective Consultative Committee is the capacity of civil society actors to significantly engage and make substantive input in the policy process. Sufficient capacity building of members of the committee is required not only to attend meetings, but also for credible preparation (e.g. policy research and analysis) to inform their input in the process. Among the recommendations made by stakeholders is for the availability of both academic and concrete practical experiences to inform the implementation process. There are two requirements to implement this recommendation: funding and expertise to conduct academic research; and resources and expertise to conduct proper documentation of experiences and data. Research and documentation can be conducted in collaboration with universities who have an interest in this area. This kind of networking among organisations may be forged from the Consultative Committee itself. Some universities have academics with expertise in international relations and graduate students who are offered scholarships to conduct policy oriented research who may be interested in conducting research on EPA implementation and the Consultative Committee. Research capacity may also be strengthened by universities developing partnerships with like-minded institutions to conduct research on the topic. Within the Consultative Committee itself, there may be institutions, e.g. think tanks that produce research and others that are consumers of research and information. Therefore, the necessary partnerships can be developed for the collective capacity building of the Consultative Committee. Support and modalities to enable the Consultative Committee to share information and operate in a transparent way, to the benefit of civil society at large, are also important requirements.

Another very important factor for an effective Committee is the presence of genuine representative participatory processes within CARICOM/CARIFORUM and EU governance structures. Representativeness of CARIFORUM civil society in the Consultative Committee can only be achieved if dialogue among the various sectors is promoted in the framework of a representative body within the CARICOM and CARIFORUM governance structures. While there are regional NGO, labour and private sector bodies at the regional level, they operate independently with limited collaboration and they operate outside of the official CARICOM or CARIFORUM governance structure. The EPA Consultative Committee could thus provide an additional impetus to establish such a platform at the CARICOM and CARIFORUM levels. The European Economic and Social Committee (EESC) may be used as a model for CARICOM and CARIFORUM for establishing a civil society platform within official government structures where selection for such processes can be facilitated.

There are initiatives, instruments and provisions in CARICOM that if given legal effect, implemented or adopted could settle the participation deficit which CARICOM faces. Some examples include: the CARICOM Charter of Civil Society, which provides a framework for civil society participation in policy making; the Treaty of Chaguaramas which contains provisions for establishing systems for national regional consultations with civil society and the Liliendaal Declaration which calls for a Task Force to prepare a regional framework on strengthening governments - civil society relations.<sup>21</sup> Additionally, the EDF funded CARICOM Civil Society Project is aimed at facilitating regional civil society's participation in the Caribbean Integration Process. One of the reasons for this project is to fulfil the region's obligations under the 2005 Revised Cotonou Agreement and the EPA, which both make provisions for civil society involvement in the Caribbean Caribbean's development partnerships with the EU.<sup>22</sup> A number of proposals

<sup>21</sup> See Girvan, N, (2011). "Caricom's Original Sin", Prepared for delivery at the Caricom Regional Civil Society Consultation, Port-Of-Spain, Trinidad And Tobago, 10-11 February.

<sup>22</sup> *Implementation of the Caricom Civil Society Project funded by the Caribbean Integration Support Programme (cisp) of the 9<sup>th</sup> European Development Fund.*  
[http://bangoonline.igloocommunities.com/caricom\\_civil\\_society/caricom\\_civil\\_society\\_project](http://bangoonline.igloocommunities.com/caricom_civil_society/caricom_civil_society_project)

have been made for the equitable and representative inclusion of civil society in the CARICOM governance structure.

Existing contacts between civil society in CARICOM and the Dominican Republic (DR) should also be strengthened as a foundation for advancing the official CARIFORUM process. Another more concrete recommendation for a labour - private sector forum in CARIFORUM is for the expansion of the annual Caribbean Association of Industry and Commerce (CAIC) annual private sector forum to include the Caribbean Congress of Labour CCL and DR private sector and labour. A step in this direction was the discussion about convening a CARICOM/DR Business forum.

There is the recognition on the EU side that attaining genuine representativeness may be challenging and therefore the focus has been on having the participation of groups with the necessary expertise and capacity. There is also the view by some stakeholders that the private sector will be key to the Consultative Committee because of the direct role they play in trading. While both statements have credence, careful attention needs to be paid to ensuring that participating organisations are representative of average citizens in the EU and CARIFORUM and very importantly, these organisations have the capacity participate in a real way. It means therefore, that groups that represent large segments of the vulnerable and disadvantaged sectors of the population must necessarily be engaged by building their capacity to meaningfully contribute substantively in the process.<sup>23</sup> This is important to guarantee that the voices of the vulnerable and marginalised are adequately represented. This is necessary to preserve the integrity of the development provisions of the EPA Agreement.

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<sup>23</sup> See Bilal, S., Jerosch, F. Keijzer, N., Loquai, C and F. Rampa, 2007, for a discussion of the need to include vulnerable and disadvantaged groups in monitoring of the EPA

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