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THE EAST AFRICAN CUSTOMS UNION PROTOCOL

An Audit of the Stakeholders' Participation in the Negotiation Process

Onesmus Mugyenyi
Flavian Zeija

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LIST OF ACRONYMS

ACODE	Advocates Coalition for Development & Environment
ACP	African Carribean Pacific
CTN	Common Tariff Nomenclature
CET	Common External Tariff
CSOs	Civil Society Organizations
COMESA	Common Market for Eastern and Southern Africa
DENIVA	Development Network of Indigenous Voluntary Associations
EAC	East African Community
EA	East Africa
EAHC	East African High Commission
EABC	East African Business Council
EU	European Union
FTA	Free Trade Area
GDP	Growth Domestic Product
GNP	Growth National Product
HLTF	High Level Task Force
IITC	Inter- Institutional Trade Committee
MTCS	Medium Term Competitive Strategy
NGOs	Non-Governmental Organizations
NDTF	National Development and Trade Forum
PEAP	Poverty Eradication Action Plan
PSs	Permanent Secretaries
PSF	Private Sector Foundation (Uganda)
UMA	Uganda Manufacturers Association
UFFA	Uganda Freight Forwarders Association
UTWG	Uganda Technical Working Group
WTO	World Trade Organisation

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1.0. INTRODUCTION

Since the break up of the East African Community in 1977, the three East African states-Uganda, Kenya and Tanzania have been struggling to revive the cooperation. In the year 1999, the treaty re-establishing the East African Community was signed and it came into force in July 2000. The treaty constitutes a consensus document between the three East African States that puts into focus the process of regional integration. In pursuit of this objective, the three states undertook to establish, amongst themselves, in accordance with the Treaty a Customs Union, Common Market, a Monetary Union and ultimately a Political Federation.

The Treaty envisages enhancement and strengthening of partnerships of governments with the private sector and civil society in its implementation in order to achieve sustainable socio-economic and political development[1]. The East African Community is grounded on a number of operational principles, which include; people centred and market driven co-operation, the principle of subsidiarity with emphasis on multi-level participation and involvement of a wide range of stakeholders in the process of integration[2]. The treaty also emphasises in its objective the principle of sustainable development and equitable economic development[3].

The Customs Union was established in compliance with Article 5 of the treaty establishing East African Community[4]. The Heads of State of Uganda, Kenya and Tanzania appended their signatures to the Protocol Establishing The East African Customs Union on the 2nd March, 2004. President Paul Kagame of Rwanda and Domitien Ndayizeye of Burundi witnessed the signing.

While the Protocol on the Establishment of the East African Customs Union was greeted with a lot of optimism from the governments of the three East African States, the business community and civil society received it with mixed feelings. The participation of stakeholders especially the business community (private sector) who are the key players, Civil Society, Parliamentarians and the Citizenry in the process of negotiating the Customs Union Protocol was limited, which indeed undermines the fundamental and operational principles of the Treaty establishing the East African Community.

This paper therefore analyses whether the negotiation process of the Protocol on the Establishment of the East African Customs Union adhered to the principles of the community, ie people centred, private sector driven and multi-level and multi-stakeholder participation. There is some level

[1] Article 5(3) (g) of the Treaty for the Establishment of the East African Community.

[2] ibid. , Article 7(a) and (d).

[3] ibid. , Article 5 (a) and 7(f).

[4] ibid., Article 5 (2)

of consensus that the success of the community will largely depend on involvement and active participation of the population. Indeed the question of ownership is crucial because it gives one a say in the methods and means by which he/she is governed. Ownership confers upon one a sense of bearing and inclusiveness. It is on this basis that the community adopted the principles of people centeredness and multi-stakeholder participation. The audit of stakeholders participation and ownership of the process in the conclusion of the Customs Union Protocol is therefore considered important in order to inform the subsequent processes. The analysis in this paper is largely based on Uganda's experience.

Based on the analysis of the findings, it is recommended that the principle of multi-level and multi-stakeholder participation should be operationalized by broadening the scope of consultations and improving information dissemination. The private sector and civil society should be deeply involved by opening up the space for their participation. The accreditation rules need to be reviewed and the procedure made little cumbersome so as to enable a range of stakeholders to obtain an observer status and participate in the future processes. The national consultative structures should be institutionalised to allow predictability of stakeholder participation and to allow an efficient feedback mechanism.

2.0. THE EAST AFRICAN COMMUNITY: A HISTORICAL BACKGROUND

The establishment of the East African Community dates back to 1897 when construction of the Uganda Railway linking Uganda and Kenya commenced. It progressed with the establishment of the Customs Collection Centre in 1900, the East African Currency Board in 1905, the Postal Union in 1905 and the creation of the Court of Appeal for East Africa in 1909. This was followed by the establishment of the Customs Union in 1919, the convening of the East African Governors Conference in 1926, and the establishment of East African Income Tax Board and the Joint Economic Council in 1940[5]. Later on, an Order in Council was made in 1940s establishing the East African High Commission. The East African Common Services Organisation agreement of 1961-66 and the Treaty of East African Co-operation 1967 were later concluded to provide for control and administration of matters of common interest[6].

[5] See the Preamble to the Treaty for Establishment of the East African Community 2000.

[6] ibid.

The East African Community arose from the desire of Britain, which was the colonial master, in charge of Uganda and Kenya and later Tanganyika to establish effective control over the region. It did not seem economically viable for Britain to have the three East African countries under separate Governors when they were under one tutelage- Britain[7]. It can be concluded from the onset therefore, that the process of integration of the East African territories was never a people centred project nor was it private sector driven. Decisions were made by the colonial governors and the British government with little involvement of the local population.

In 1926, there was an attempt to federate the three East African territories through a conference of Governors. The Conference of Governors as established became a policy-making organ. The method of decision-making was unanimity and in the case of disagreement, the Secretary of State would be the final judge. The three Governors seem to have been driven by the desire to regulate transport and customs policy[8]. However, the main weakness with the Conference of Governors was that decision-making was heavily centralised. The Ordinary Citizens of East Africa had no say in the affairs that were affecting them. In 1932, the conference of governors was mandated to have a permanent secretariat and to be the basis for developing inter-territorial co-operation and coordination of matters of common interest[9].

In 1948, the Queen of England established the East African High Commission (EAHC) by enacting an Order in Council of 1947, which created a paramount executive authority, the East African High Commission. This commission was intended to administer common services in the region. The commission consisted of Governors of Uganda, Kenya and Tanzania, with a secretariat in Nairobi. These common services included Railways and Harbours, Civil Aviation, Posts and Telegraphs, Telephone and Radio Communications. This development precipitated the formation of the East African Railways and Harbours and the East African Posts and Telegraphs. This order in council also created a central legislative assembly consisting of mainly appointees by governors[10].

On Uganda's part, the integration of the East African countries was not taken lightly by Buganda Kingdom. Because of the failure to involve stakeholders, Buganda saw the East African federation as a threat to the special position it had enjoyed during the colonial period. Towards independence, the Kabaka (King) of Buganda Sir Edward Muteesa II demanded independence from

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[7] Serunkuma K. (1987), Regional Corporation and Economic Integration in East Africa: Viability of the Economic Community. Makerere University, Kampala (unpublished)

[8] ibid.

[9] ibid.

[10] Mpumbani G. (1999), In Search of Closer Cooperation: A Critique of the Revival of the East African Community, Makerere University.(Un published).

not only the East African Federation but also from the rest of Uganda. As a result, the Lukiiko (Buganda parliament) refused to support and remained opposed to regional integration[11]. In effect, this opposition to integration forced the colonial government to finally abandon the idea of a federation on the road to independence[12].

Towards independence, the growing nationalism of the indigenous people of East Africa countries supported by the American open door policy increased the demand for self-determination and the idea of federation went in limbo. Soon after attaining independence, the three heads of East African states started mooting out the idea of a federation. In 1965, the Phillip Commission was set up to consider the problems of economic and institutional cooporation. The commission was set up to play a negotiation and mediation role. The commission made a report in May 1966. A treaty for The East African Co-operation was drafted out of this report and was signed by the three Heads of State of East Africa countries on the 6th day of June 1967. The Treaty constituted the first comprehensive legislative frame - work to be put in place to deal with the integration of the three states. However, the contradictions that had led to difficulties in previous integration process could not allow the East African Community to survive. In 1977, the East African Community collapsed and was relegated to the books of history. The reasons for the collapse of the East African Community are discussed in the next section.

2.1.0. The Disintegration of the Community: What went wrong?

2.1.1. Benefit Sharing

The East African community collapsed mainly because of the question of benefit sharing. Perhaps this is still the main threat to the operationalisation of the East African Customs Union. Kenya as a result of its strategic location was industrialised more than the rest. She therefore continued to export to other economies of the community more than Uganda and Tanzania. Kenya dominated the export sector by 90% and Uganda and Tanzania were sharing a meagre 10% of the inter country trade. It is estimated that in 1962 East Africa trade amounted to US $43,986,000 of which Kenya had a share of US $40,024,000, while Uganda and Tanzania exchanged goods worth US $3,962,000[13]. This trend under the Common Services Organization continued unaddressed under the East African Community. It is a result of this un equitable distribution of benefits that made Tanzania and Uganda to continue viewing the East African Community project as a project by Kenya to "employ" Uganda and Tanzania as her trade "agents" for a small "commission"[14]. This is one of the main factors that led to the break-up of the East African Community.

[11] ibid.

[12] ibid.

[13] Mpumbani Supra.

[14] The Dairy Nation, Oct 17 1985. Pg 13.

2.1.2. Poor Governance and Political Differences

Another major cause that led to the break up of the East African Community was lack of political will to hold the community together. Upon assuming independence the three countries were led by heads of state that had struggled for independence. They continued to look at each other as the only visionary colleagues that could transform the economies of the three states. In 1970 however, Amin assumed power through a coup in Uganda. He over threw Milton Obote the then president and established a military government that ruled the country by Decrees. The Presidents of Kenya and Tanzania did not take lightly a military coup in their backyard. President Obote run into exile in Tanzania and Uganda started viewing Tanzania as an enemy state.

President Nyerere refused to recognise Amin as the President of Uganda. He refused to sit with him in meetings. In retaliation Amin chased away all Tanzanians that were employed in Uganda under the EAC[15]. In 1972, Uganda exiles attempted to attack Uganda from Tanzania through Mutukula boarder in an attempt to overthrow Amin. This meant that the East African Authority could no longer meet. Although some organs continued to function, in principal, there was no Cooperation. Notwithstanding all these differences, the community persisted, but it became apparent in 1977 that the East African Community could not survive its deathbed especially when Kenya grounded the East African Airways by starting a domestic Airline. Tanzania retaliated by starting her own independent Airline. This was after closing her border with Kenya. Kenya in retaliation further refused to remit funds to the Countries General Fund Services and withdrew all her staff from the headquarters in Arusha. In view of these events, the community could not stand any more.

2.1.3. Ideological Differences

In 1967, Tanzania adopted socialism as a strategy for economic development. Uganda also attempted to adopt a mixed ideology of socialism and Capitalism by the Nakivubo pronouncements (move to the left). However, because of the white settlers and European entrepreneurial influence, Kenya adopted capitalism as its development ideology. This was the period of the cold war between the Soviet Union and United States and her allies.The war had spill over effects on the three states that led to a conflict of interests This clash of interests culminated into out busts. At one point, President Nyerere labelled President Kenyanta as a President who runs a country of “man eat man” and Kanyanta retaliated by calling Nyerere a President who runs a country of “man eat nothing”[16]. At this point it became obvious that the East African Community would collapse.

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[15] Uganda Augus, 27 Oct. 1971.

[16] “Opinion” Tanzania, June-July 1986.

2.1.4. Lack of Stakeholders Participation

The East African Community was built on the strength of individual politicians. The population did not participate in decision- making and the integration process. There was lack of popular will throughout the process of integration. Therefore the community lacked citizen ownership and could only exist as long as politicians agreed.

3.0. THE NEW EAST AFRICAN COMMUNITY

The efforts to revive the East African Community started taking shape in the 1990s. On 30th November 1993, the three East African Heads of State signed an agreement establishing a Permanent Tripartite Commission for the East African Corporation. The agreement set up a council of Ministers. The council was mandated to work out key areas of co-operation and to put in place arrangements for regional integration. This was followed by the launching of a Secretariat in March 1996. The secretariat came up with a development strategy document covering the period 1997-2000. The heads of the three states launched this strategy in April 1997. This document became the roadmap for the treaty establishing the East African Community in 2000.

The Heads of state of Uganda, Kenya and Tanzania signed the treaty re-establishing the East African Community on the 30th November 1999, pending ratification by their national parliaments. By the end of the year, 2000, all the parliaments had ratified the treaty and it came into force. This treaty was the apex of extensive negotiations by government of the three East African Countries[17]. The treaty establishing the East African Community clearly spells out the process of integration as follows:

> Partner states undertake to establish among themselves and in accordance with the provisions of the treaty, a Customs Union, a Common Market, a Monetary Union and ultimately a Political Federation in order to strengthen and regulate the industrial, and commercial infrastructures, cultural, social and other relations of the partners[18].

This undertaking summarises the programme of the community as envisaged in the treaty. The treaty establishing the East African Community emphasises in the operational principles multi - level participation and involvement of a wide range of stakeholders. In the subsequent part, the paper analyses whether this principle has been operationalised in the establishment of the East African Customs Union.

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[17] Francis K. Muthaura (2001), The Process for the East African Integration: A Seminar paper on Regional Integration (unpublished)

[18] op.cit., Article 5.

4.0. THE EAST AFRICAN CUSTOMS UNION

The treaty establishing the East African Community provides that, "Partner states shall within a period of four years, conclude the protocol on the establishment of a Customs Union"[19]. A Customs Union is the first phase of integration by the East African states as provided for by the treaty. According to Maurice Schiff and Alan Winters[20], a Customs Union has a common external tariff as well as internal free trade. It places tighter constraints on individual member countries' policies and sovereignty. It requires harmonisation of non-tariff barriers to be imposed on others. The two scholars argue that a Customs Union offer greater market integration and lower costs but require more serious coordination. Indeed this is why stakeholders' participation is essential.

Box 1: Features of the E.A Customs Union

- Common set of import duty rates applied on goods from third countries (Common External Tariff).
- Duty-free and quota-free movement of goods among its constituent custom territories
- Common safety measures for regulating the importation of goods from third parties such as phyto – sanitary requirements and food standards.
- Common set of customs rules and procedures including documentation.
- A common coding and description of tradable goods
- A Common valuation method for tradable goods for tax (duty) purposes (Common Valuation System).
- A structure for collective administration of the customs union.
- A common trade policy.
- Dumping, subsidies, countervailing measures corporation policy, customs corporation, re-exportation of goods, simplification and harmonisation of trade documentation and procedures.

In the theory of economic integration, a Customs Union is supposed to be the third stage of integration. The first stage is the Preferential Trade Area and the second stage is the Free-Trade Area. The rationale for these two stages is to prepare states for a more complex level of integration- the Customs Union. However, the treaty establishing the E. African community skipped the first two stages of integration. Therefore, the Customs Union constitutes the first stage of integration under the East African Community[21].

East African Community presidents signing the protocol from left President Y.K. Museveni (Uganda), B.Mkapa (Tanzania) and Mwai-Kibaki (Kenya)

[19] *op.cit., Article 75(7).*

[20] *Maurice Schiff and L. Alan Winters (2003), Regional Integration and Development, Washington, World Bank and Oxford University Press.*

[21] *See Article 2, 5, and 75 of the treaty.*

The Protocol on the establishment of the East African Customs Union was signed by the Heads of state of the three East African Countries on 4th March, 2004. The protocol among others provides for the application of the principle of asymmetry, the elimination of internal tariffs and other charges of equivalent effect, the elimination of non-tariff barriers, the establishment of a common external tariff, Rules of Origin, ant-dumping measures, subsidies and counter veiling duties, security and other restrictions to trade. Other provisions include those that relate to competition, duty drawback, refund and remission of duties and taxes, customs co-operation, re-exportation of goods, simplification and harmonisation of trade others include documentation and procedures, exemption regimes, harmonised commodity description and coding system.

The main goals of the East African Customs Union include liberalization of intra-regional trade in goods on the basis of mutually beneficial trade arrangements among the partner states, promoting efficiency in production, enhancing domestic, cross border trade and foreign investment, promoting economic development and diversification as well as industrialization. Among the specific objectives, the East African Customs Union seeks to create a Common External Tariff (CET) regime for goods originating from outside East Africa, Common Customs Laws and Regulations, which will apply uniformly in the partner states and harmonizing and simplifying customs procedures and documentation.

The Customs Union has detailed provisions on how each of the above elements will be treated or applied. However, the details on the operationalisation are contained in the annexes that form an integral part of the protocol. The protocol is therefore incomplete without the annexes. Consequently, the protocol must be read together with the annexes. The key annexes include; The Harmonised Commodity Description and Coding System, Elimination of Internal Tariffs and Rules of Origin, East African Community Customs Union (Subsidies and Counter veiling measures) Regulations and East African Community Customs Union (Safeguard Measures) Regulations. Others include list of Goods Restricted and Prohibited from Trade, East African Community Customs Union (Processing Zones) Regulations, East African Community Customs Union Harmonised List of Exemption Regimes and East African Community Customs Union (Dispute Settlement Mechanism) Regulations.

Besides the annexes there are other basic principles contained in the enacted laws by the East African Legislative Assembly like the Customs Management Act, 2004 and other proposed policies and laws such as the East African Community Competition Policy and Law among others.

4.1.0. Expected Benefit from the Customs Union

4.1.1. Wider Market

By February 2004, the average size of the population in each of the three East African territories was estimated at 30 million people and their GDP was estimated at $10 billion each. These economies on their own are too small in market terms compared to small countries in Europe[22]. Small markets are a disincentive to investment. The East African Community Secretariat singled out an example of Vietnam. In 2000, with total GDP of US$25.553bn (Kenya, $10.357bn (Tanzania $9.027bn; and Uganda $6.17bn), the three countries were worse off than Vietnam. Their population combined was 86 million people while Vietnam had a population of 79 million but with a total GDP of $31.344bn. This implies that an investor would prefer Vietnam to each of the individual East African countries. This clearly shows that unless the three countries integrate, they remain a disincentive to investment. Therefore, if the three countries can integrate fully, investors will enjoy a market of over 90 million people (more than Vietnam). However, the region would still be disadvantaged because of its poverty stricken population.It is therefore, not wise for any of the countries of East Africa to disintegrate from the community. As President Mkapa of Tanzania advised,[23] 'time is running out and the deadlines are fast approaching for throwing doors open to foreign trade within the context of the East African Community. The reaction from an ordinary person, especially in Tanzania might well be: why open your borders and loose jobs and industries? But as Tarino[24] stated, the reality, not only for Tanzania but also for Kenya and Uganda is that a status quo is not an option. To deliver any meaningful improvement in living standards to populations growing at the rate of around 3% per annum, East African governments need to deliver growth close to double-digit figures. A growing economy needs to be an open but regulated economy and regional blocks such as the East African Community are a step in this direction. Tarino urgues that a high rate of growth can be figurered by the introduction of free trade which will benefit from a larger market of 90 million people in the East African Community.

4.1.2. Attracting Investment

As earlier noted, the Customs Union is expected to increase investment in the region because of the wide market factor. This means that East Africa is likely to benefit from increased investment. This is because the Customs Union has the effect of promoting cross-border investment, and attracting investment from foreign countries because of the expanded market. This incresed investment will offer jobs to the majority of the unemployed population, hence reducing poverty.

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[22] East African Community Secretariat (2004), East African Customs Union: Implications and Benefits of the East African Customs Union. Public Relations Office, East African Community Secretariat.

[23] President Mkapa while launching the Tanzania National Business Council, as quoted by David Tarino (2004), Trade Blocks: United we stand? (Un published).

[24] David Tarino(2004) trade Blocks. United we stand(unpublished)

For investors who want to produce for the export market, the liberalised export potential to the regional markets is an additional incentive. The reduced transaction costs by traders and transporters will also increase their chances to participate in foreign markets.

Although Kenya dominates the region in manufacturing sector, Uganda and Tanzania have a comparative advantage over Kenya in agricultural production and could grow into a food granary for the region. The table below shows the contribution of the agricultural sector to the economies of Tanzania and Uganda compared to other sectors in as of year 2000.

Table 1

Sector	Share of GDP %		
	Kenya	Tanzania	Uganda
Agriculture	24%	48%	42%
Manufacturing	13%	8%	9%
Commerce	13%	13%	--

.**Source:** *Economist Intelligence Unit Country Reports*

The table above suggests that, Uganda and Tanzania are likely to export more to Kenya in view of their dominance in agriculture. This will help the poor communities in Uganda and Tanzania that mainly rely on agriculture to improve their livelihoods.

4.1.3. Reduced Consumer Prices and Increased Supply of Goods and Services

It is expected that Uganda's consumers will benefit from the elimination of tariffs and non-tariff barriers by the Customs Union. If taxes reduce, correspondingly, prices of goods and services reduce and the greater demand as a result of reduced prices increase supply of goods and services[25].
Other manifestations of well fare can be attained from the following:

- Easing cross- border movements: One of the biggest problems Uganda has been facing is delays at the border point closings due to customs valuation delays. The Customs Union is expected to reduce these delays as a result of reduced documentation[26]. The introduction of the East African passport has already had great impact.

[25] East African Community Secretariat, op.c it., p. 15.

[26] ibid.

- Reduced localised scarcity especially of foodstuffs that are sometimes subjected to high taxes across the border. Transportation of products will also be eased. This will mean increased food security, due to free movement of agricultural produce from areas of plenty to areas with shortages[27].

- Lower prices for goods and services as a result of industries adopting more efficient production techniques leading to specialisation and mass production in response to intense competition.

5.0. THE NEGOTIATION PROCESS OF THE EAST AFRICAN CUSTOMS UNION: WAS THE PROCESS PARTICIPATORY?

5.1. The Concept of Participation

> If we are to remain free, if we are to enjoy full benefits of Africa`s rich resources, we must unite to plan for our total defence and full exploitation of our material and human means in the full interest of our people. To go to it alone, will limit our horizon, curtail our expectations and threaten our liberty, *Kwame Nkrumah.*

World over, the importance of stakeholders' participation in the development process is undisputed. Stakeholder participation is not only desirable but also essential to the success of development and policy formulation. Generally, in Policy and development strategy formulation the term participation usually crops up. The treaty for the establishment of the East African Community recognizes the principle of participation as an important component of development. Article seven provides for multilevel participation and involvement of wide range of stakeholders[28]. But what does the principle of participation mean?.

Participation is the process by which stakeholders' influence and share control over development initiatives and over decisions and resources that effect them[29]. To many people participation involves empowerment, mobilization and stakeholder involvement.

The empowerment aspect entails challenging and changing the institutional status quo and vested interests of different groups.[30] It often involves the empowered developing confidence in their own capacities. The empowerment

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[27] ibid.

[28] op.cit., Article 7(d)

[29] Peter Veit(ed) (1998) Africa's Valuable Assets; A Reader in Natural Resource Management, World Resources institute, at p.109.

[30] ibid.

aspect is based on the idea that the citizens must be helped to participate in decisions that affect them. This therefore makes participation both a goal and as well as a means to achieve sustainable development. Participation requires both organizational and consciousness raising[31].

Participation by mobilization is considered the dominant way of linking participation with development. This approach is based on the assumption that there is great inertia in society to change. Even though it may want to change, it may not know what is in its best interest. What ordinarily happens in this approach is for government to decide what is to be done and let the people to do it[32].

Stakeholder involvement is based on the principle that people must participate in decisions that affect them. Proponents of this type of participation view stakeholders as people who understand their problems and can contribute to the solutions. This approach adopts the view that unless the concerns of interested stakeholders are taken care of in the formulation of policies and development strategies, implementation will be unsuccessful. The approach dismisses elitism and believes in the capacity of local citizens to influence decisions and make good choices and priorities for realising their goals.

Although the treaty establishing the East African Community envisaged stakeholder involvement approach,[33] the negotiation process of the Customs Union in the case of Uganda largely negated the principle of participation. There was limited empowerment and mobilisation for participation. Stakeholder participation was also limited and indeed this kind of approach undermines sustainable development.

5.2. Relevance of Participation

Everybody or anybody who is affected by or benefits from any development endeavour needs to take active part in its planning, decision-making, and implementation. Development is after all everybody's business. It is something that each one must attain for one's self. Everybody must take responsibility and get involved in the pursuit of sustainability, as it is the people's right to have a sustainable life. Individual actions, however, are best coordinated and taken together to attain synergy and optimum results. Operationally, therefore, development must be pursued in a way that involves and benefits from the complementary actions of the three key stakeholder groups, namely, public institutions (government), private enterprises (business), and civil society.

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[31] ibid.

[32] ibid.

[33] Stakeholders in this context refers to individuals, CSOs, groups of individuals and organizations, politicians, private sector and academia who will be affected by development intention of the policy.

Civil Society has rapidly become a critical actor in the development arena. More often, governments have relied on civil society to handle areas where their reach and services are limited. Civil society has the ability to work for and with local communities. It has better flexibility and can easily adapt to various situations including venturing into innovative approaches in the pursuit of set goals. Civil society has served as the voice of its beneficiaries and the bridge between government and beneficiaries and among stakeholders. Civil society has the advantage of being able to organize and work at different levels, from grassroots to the global arena, to address wide areas of concerns, to adopt a wide variety of constituents, and to execute its work with greater flexibility. These attributes allow civil society to work more effectively with the people and better influence their thinking. These attributes notwithstanding, civil society cannot pursue the tasks of development alone. It needs government to provide the structures of authority within which policies will be defined and appropriate rules of behaviour enforced. It needs government, which has greater access and better capacity to generate resources from both local and external sources, to provide access to and share these resources. It also needs the cooperation and assistance of the business sector in undertaking development initiatives in various geographical and thematic areas of development.

Private Sector dominates the production sector where jobs, goods and incomes are generated. Thus, the sector directly determines the sustainability of production activities, and influences the sustainability of the consumption behaviour of the public through the goods and services they produce, and the manner by which they promote and package them. Private Sector has the capability and resources to promote and influence sustainability. The participation of the sector in all sustainable development initiatives is thus critical. As part of the problem, they must be part of the solutions, including in the planning and execution of such solutions.

Governments provide the legal and regulatory framework that sets order and directions to development. Actions by civil society and business are governed and influenced by the policies and regulations imposed by government. Government also takes the lead in crafting the future and setting development directions. Governments are able to effectively play these roles as it also has the mandate

Box 2: Benefits of Stakeholders participation

- It brings more information and broader experience into decision-making, contributing to the elaboration of more realistic policies, Laws and regulations.
- It helps to ground new initiatives in existing and legitimate local institutions and in cultural values
- It helps to build political support and reduce resistance to policy proposals and other decisions by building in stakeholder concerns and interests.
- It helps build local capacity that assists implementation and future development planning and actions.
- It enhances the prospects that those responsible will be held accountable

and capability to generate and allocate resources necessary to foster development. However, actions and solutions to sustainable development challenges do not lie with government alone. Similarly, government is not the only agent of development neither is it solely responsible for solving developmental problems such as poverty. Development concerns are created by the people. Engaging the people therefore in seeking for solutions for their problems is important. Indeed, it is the recognition of this complementary role that the Treaty Establishing the East African Community provided for participation of multi stakeholders. Consequently, the failure of government to create the necessary structures and disseminate relevant information to allow effective stakeholder participation undermines the spirit of the Treaty.

5.3. Measuring Participation

The East African Community treaty is silent on how the private sector and civil society should participate in the integration process. However, Article 127 (3) of the Treaty compels partner states to provide enabling environment for the participation of civil society and private sector in the development activities. Under Sub-section (2) the Secretary General is required to provide the forum for consultation between the private sector and civil society organizations, other interest groups and appropriate institutions of the community.

Although the treaty does not provide for the mode of participation, participation can be measured using three parameters; who to participate, the nature of participation (how you tell peoples participation) and where to participate.

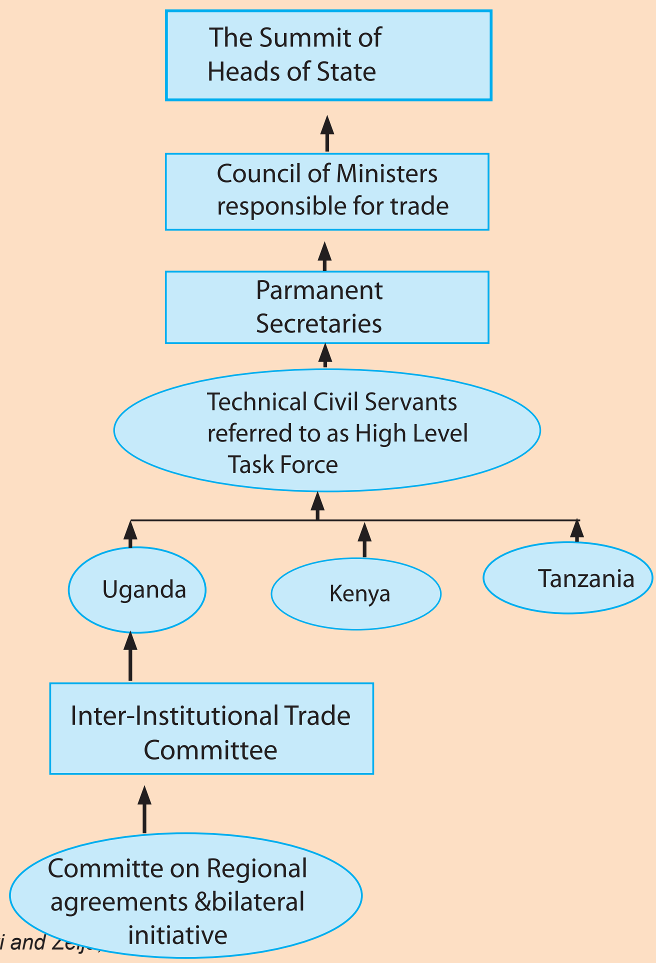
The first parameter is partly answered by the treaty establishing the East African Community. The participants are the governments, the private sector and civil society, the people and other interest groups (not defined by the Treaty).

The second parameter can be established from policy briefs, policy research papers and memoranda submitted and workshops/dialogue meetings held plus resolutions thereof submitted. It is through these instruments, activities and products that one can ascertain the participation by civil society and private sector in the activities of the community that affect their constituencies.

> **Box 3: Levels of Participation**
> The preamble to the Treaty establishing the east African community provides that the co-operation should be at the national, sub regional and regional levels.
> Article 127(1) (a) provides that dialogue with the private sector and civil society should take place at the national level and community level.

The third parameter is perhaps the most pertinent. Participation should be at the policy formulation process, planning and implementation of the community protocols at the sub regional, regional and national levels. What is interesting to note however, is that at the community level the Treaty establishing the East African Community does not provide for private sector and civil society among its institutions. The Customs Union protocol does not provide for them among its institutional structures either. Article 9 which establishes the institutions and organs of the community clearly mentions the Summit, the Council, the Coordination Committee, the East African Court of Justice, the East African Legislative Assembly, the Secretariat and such other organs as may be established by the summit. The summit is composed of heads of state or government of member states. The council consists of ministers responsible for regional cooperation. The coordination committee consists of Permanent Secretaries responsible for Regional Corporation in each partner state. The failure of the treaty to provide for representation of civil society and private sector on the important organs of the treaty reflects a departure from the ideals of the operational principles of the treaty.

5.4. East African Customs Union Negotiating Structure



Adopted by: *Mugyenyi and Ze*

The negotiations of the East African Customs Union were supposed to be conducted at the National level (within partner states) as well as the regional level (among partner states). At national level, country positions were supposed to be generated through the High Level Task Force within member countries. The Task Force was essentially composed of civil servants. However, they were expected to consult other stakeholders, including other government agencies, private sector and civil society. This was intended to generate grassroots views of each partner state. It was from this High Level Task Force that each partner states delegation was constituted to feed into the H LT F at the regional level. In the case of Uganda, the Inter Institutional Trade Committee was supposed to provide a consultative forum and play the role of the National High Level Task Force.

At the regional level, the committees were constituted of government representatives and all the meetings were organized based on hierarchy and each organ was feeding into the other. At the Bottom was the Regional High Level Task Force (RHLTF) constituted of Civil Servants from the member states. Private sector and civil society were supposed to have observer status. This was a bigger body in terms of numbers, and it was also operating through committees. The RHLTF was feeding into the Committee of Permanent Secretaries. The Permanent Secretaries were feeding into the Council of Ministers. The Council of Ministers is the governing body of the East African Community. The council of ministers was then feeding into the summit, which is the top organ of the East African Community.

5.5. Civil Society and Private Sector Participation in the Negotiation of the Customs Union Protocol

The treaty for the establishment of the East African Community provides that the objectives of the community shall be to develop policies and programmes aimed at widening and deepening the cooperation among the partner states in political, social- economic and cultural fields, research and technology, defence, security, legal and judicial affairs for the mutual benefit[34]. In achieving these objectives, the countries shall ensure the enhancement and strengthening of partnership with the private sector, and civil society in order to achieve sustainable social, economic and political development[35]. One of the operational principles of the East African Community is a people centred and market driven integration[36]. It is the above provisions of the treaty that mandate the private sector, and civil society and other interest groups to participate in the integration process.

5.6. Spaces for Stakeholders' Participation in the Negotiation of the

[34] op.cit., Article 5(1) (g).

[35] ibid., Article5(3)(g).

[36] ibid., 7(1)(a).

East Africa Customs Union

Spaces can be defined as moments, in which interventions or events which create new opportunities, reconfiguring relationships between actors within the spaces or bringing in new actors and opening up the possibilities of a shift in direction[37]. Spaces provide stakeholders opportunities to express a variety of alternatives and the trend of events and the direction of a policy or development strategy. Different stakeholders have always used different spaces and approaches to influence the outcomes of a policy. The common spaces are invited spaces as opposed to claimed spaces. Invited spaces include public discussions or policy making processes where groups are invited to participate such as the World Bank's Poverty Reduction Strategy processes where international actors and state institutions control the agenda and rules of engagement. Ordinarily, when groups are invited to participate in these spaces, the agendas are often preset or pre-arranged in a manner that principally serve to legitimise the institutions prior goals and do not offer the group's real opportunities to engage on key policy questions. In contrast, claimed spaces like public accountability sessions are created by civic groups and the agenda and participation of the state and other actors are set by the civic groups themselves. Spaces are therefore, not only boardrooms or meeting halls and round tables but moments of intervention where stakeholders negotiate possibilities.

The regional spaces for negotiation of the Customs Union were more complex. The obvious spaces were invited spaces in the meeting halls/conference rooms but many actors we closed out. There was no specific forum designed at the regional level to capture the views of civil society in its wider context. A number of actors in Uganda expressed dissatisfaction of their involvement. "It was a closed shop for politicians and government technocrats" observed an officer of a regional NGO with offices in Uganda. "We were closed out of the key meetings", added another officer from Non-Governmental Organisation. The major CSO organisations working on trade issues in Uganda confessed that they did not participate in the negotiations nor was the timetable for the process publicised. The structures of negotiations did not take care of the civic groups and other relevant stakeholders. They were purely dominated by the government beaucrats talking to themselves. Development Network of Indigenous Voluntary Associations (DENIVA), which has a membership of about 80 Voluntary associations conceded that the process was closed to Civil Society[38]. Indeed, this undermines the intended effect of Article 127, which is to the effect that partner states will provide enabling environment for the private sector and civil society to participate actively in improving the policies and activities of the institutions of the community that affect them

[37] Karen Brook, Rosemary McGee and Richard Ssewakiryanga (2002), Poverty Knowledge and Policy Processes; A case Study of Ugandan National Poverty Reduction Policy. Institute of Development studies, Briton, at p.37.

[38] The term "civil society", while referring to society at large outside of government, is often used synonymously with the NGO community. In practice, civil society also includes the academic and research community, religious hierarchy, trade unions, and people's organizations.

and create an improved business environment.

Under the treaty establishing the East Africa Community, it is provided that the Council will put in place the rules of procedure for granting observer status[39]. The admission as an observer therefore, provides another space for civil society and other interested and eligible groups to participate. The rules of procedure for granting the observer status came into force on 13th January 2002. However, the procedure constitutes another unnecessary burden to CSOs making utilisation of this space difficult. There are very few civil society organisations in Uganda that have been granted observer status[40]. The requirement of registration of the interested CSO in the three partner states is seen by a number of CSOs as unnecessary precondition given the objectives of the community to demystify the difficulties presented by physical geographical borders in order to smoothen the cooperation. A number of Civil Society organisations that have attempted to obtain the observer status have so far been unsuccessful because they are yet to comply with the requirement of registering in the three partner states[41]. While responding to the application submitted by Advocates Coalition for Development and Environment (ACODE), The Secretary General wrote in part,

> Having studied the objectives of ACODE, Strategic Plan and profile, I am of the view that ACODE could contribute to the achievement of the East African Community. However, according to The Rules of Procedure for the Granting of the Observer Status, a Civil Society Organisation like ACODE is required apart from the general broad criteria, to bear a regional dimension with registration in each of the partner states[42]

Whereas this was indeed a correct reading of the rules and one can comfortably say the rejection of the application was legally justified, most of the CSOs view the requirement as an unnecessary obstacle to Civil Society participation. The Executive Director of ACODE insisted that the requirement undermines the objectives of the community; it subjects the stakeholders to unnecessary bureaucratic procedures and finally limits their participation to influence issues that affect their constituents. He concluded that it is a classical case that requires interpretation of the East African Court of Justice[43].

The attempt by Civil Society to organise and claim space has to-date not

[39] See Article 3(6) establishing the East African Community.

[40] At the time of this research information obtained indicated that there is only one NGO in Uganda that had obtained an observer status

[41] See criteria 1.1 of the Annexure to the East Africa Community Procedure for Granting Observer status.- Kituo cha katiba

[42] The secretary General - East Africa Community responding to the application submitted by Advocates Coalition for Development and Environment. (ACODE)

[43] An interview with Godber Tumushabe, the Executive Director of Advocates Coalition for Development and Environment on the 1st January 2005.

yielded. Civil society organisations in the three East African Countries attempted to form a coalition, which collapsed in the formative stage. One of our correspondents insisted that failure of the civil society to participate in the negotiation process was partly due to lack of leadership. Both DENIVA and NGO Forum, which are umbrella organisations in Uganda, did not participate in the process but there was no pro-active action to claim space. A development worker in one of the local NGOs operating in Kampala observed, “NGO Forum did well in the Poverty Eradication Action Plan (PEAP) revision process in 2004. It was able to provide leadership in the process. There was multi-stakeholder participation. But on regional integration, the forum has let us down”.

The civil society organisations in the East African Region are just making an attempt to reorganise and probably participate in the subsequent processes. At a regional workshop held from 28th-29th July 2005 several regional CSOs resolved to form an East African NGO/CSO Steering Committee at national and regional level. The organisations also agreed to constitute a forum to be known as East African Community NGO/ CSO Forum as an autonomous body to serve as an umbrella organ of all NGOs and CSOs in the region. All these attempts constitute pro-active reaction to gain space for the CSOs to effectively participate in the subsequent processes.

Members of the East African Legislative Assembly were also concerned about the level of stakeholder involvement. Hon. Shiela Kawamara Mishambi, a member of the East African Legislative Assembly passionately argued that the process was closed to many actors. “ Imagine, the East African Community Customs Management bill was provided to us and discussed into law in two days. The process was rushed and did not give sufficient time for stakeholder input. We did not have time to consult. I am on record. I did not support the idea. My fear is that the implementation may meet some obstacles because of less involvement of the population”. The public participation in the process indeed was poor and even the majority of the technocrats did not know the outcomes of the process. Hon. Irene Ovonji- Odida commented that the process was more of a top-bottom and was not people driven. Indeed, after the protocol came into force, Kenya, Tanzania and Uganda customs officials did not know what to do as there were no guidelines on the implementation of the new customs procedure[44]. Hon. Captain Richard Ddudu also a member of the East African Legislative Assembly regretted that the government bureaucrats hijacked the negotiation process. He disclosed that throughout the negotiations, Uganda had the thinnest team and civil society was conspicuously absent[45].

The other forum that would have provided space for stakeholder participation

44 Tralac(2005) Start of the EAC Customs Union causes widespread confusion. ; Http://www.tralac.org/scripts/comtent.php?id=3272 accessed on 20/1/05

45 Hon. Captain Richard Ddudu was addressing the participants at a breakfast dialogue meeting on the East African Customs Union organised by ACODE and Ugandan members of the East African Legislative Assembly for awareness creation and identifying opportunities and challenges.

Left-Right: *Hon. S.K. Mishambi, Hon. Odida, Hon. Wanyoto and Hon. Dudu on one of the briefing sessions on the East African Customs Union*

is the Inter- Institutional Trade Committee (IITC). The IITC is a committee of the Ministry of Tourism, Trade and Industry that is composed of government ministries, departments and agencies, NGOs, academia, representatives of farmers, private sector, parliamentarians and research institutions among others. The IITC has been acclaimed as a useful and innovative forum for trade policy formulation and implementation given the diverse expertise from various stakeholders. The committee of recent was divided into sub-committees; the sub-committee on WTO issues, the committee on Cotonou Agreement and a committee on IITC sub-committee on WTO and Cotonou have been operational but the sub-committee that deals with regional agreements and bilateral initiatives has been dormant since its constitution.

The IITC is a potential forum that would have brought together different stakeholders to deliberate, table their concerns and be able to influence the outcome of the negotiations. A thorough audit of the IITC meeting proceedings during the time of the negotiation of the East Africa Customs Union reflected scanty issues relating to the Customs Protocol. The sub-committee on Regional Agreements and Bilateral Initiatives, which should have actively be involved in the negotiation of the annextures to the protocol to ensure compatibility with the national development strategies, is still inactive. Whereas we have seen government involving various stakeholders in developing negotiating positions in respect to both WTO and ACP-EU negotiations, the negotiation of the Customs Union took a completely different trend.

In relation to this principle of participation Prof.Oloka Onyango has observed that right from the inception of the East African Community, the principle of participation has been undermined.

Those who were around will recall that the draft Treaty was put

> to public debate between May 1998 to April 1999. The response was lacklustre and indeed the involvement of broader masses and the populace was marginal…indeed there are several explanation including non-involvement of civil society and other non state actors in the concept formulation…,lack of publicity and information surrounding the process…[46].

The above notwithstanding the government officials insist that CSO and private sector among other stakeholders participated in the negotiations process. “They were invited to the meetings but they never took the process seriously”, said one high ranking official from the Ministry of Tourism, Trade and Industry. However talking to eleven CSOs working on trade and development issues in Kampala one does not get the feel that CSO were invited or participated in the negotiation of the Customs Protocol. Consultations with the Economic Policy Research Centre, Makerere University, a major research institution also expressed similar views that the process left out important actors.

5.7. Participation by the Private Sector

President Mwai Kibaki of Kenya, referring to the East African Customs Union said;

> Lessons learnt from the defunct East African Community which collapsed in 1977 show that apart from political will from governments and political leaders, there is need for strong participation of the private sector, civil society and the people of East Africa in general for the integration to work.[47]

The negotiation process of the Protocol on the Establishment of the East African Customs Union was indeed a fundamental departure from this viewpoint.

After formally launching the East African Community, the three governments established a High-Level Task Force, comprised of senior representatives from the relevant government departments in each member state to negotiate a trade protocol to carry out the terms of the East African Community treaty on the formation of the Customs Union[48]. The task force was constituted of the officials from the Ministry of Tourism, Trade and Industry, Ministry of Foreign Affairs, Ministry Finance, Planning and Economic Development and Revenue Authorities of the East African Countries. The business community

[46] J. Oloka-Onyango (2005), Who Owns the East African Community. Presentation a DEVIVA public Dialogue on the East African Community at Hotel Equatoria, November 23,2005.

[47] President Mwai Kibaki talking a bout regional integration, Nov. 05.2003.

[48] USAID-PSF Trade Policy Capacity Building Project, Trade Policy brief. Regional Trade arrangements EAC, COMESA, SADC and Cotonou Agreement. Private Sector Foundation, Kampala.

and civil society were not effectively represented on this team.
The business community with their umbrella organisation East Africa Business Council (EABC) currently enjoy an observer status, which limits their participation in the Customs Union. According to James Mulwana the EABC chairman, the EABC is still lobbying for an affiliate status to enable them participate in the negotiations for the annexes to the Customs Union[49].

At the signing of the Customs Union Protocol, the business community complained that governments had sidelined them. At a press briefing by James Mulwana, the then Chairman of the Uganda Manufacturers Association, complained that the sidelining of the business community by the Uganda Government continued up to the date of signing the protocol. This misunderstanding between the business community and private sector is likely to continue into the implementation stage of the Customs Union. This is not healthy in view of Article 7 of the treaty that emphasise multi-stakeholder participation and a private sector led integration.

J.Mulwana and Alam on one of the briefing session.Uganda Manufacturers association insisted that private sector participation was limited

During the negotiations of the East Africa proposed Common External Tariff (CET), the East African Business Council (EABC) while explaining why consensus had not been reached on a number of issues, the private sector complained that there was lack of proper involvement of the private sector in the negotiation leading to the conclusion of the Customs Union. The EABC observed;

> The East African Business Council and her members are not accorded the proper opportunity to participate in the negotiations by partner states officials. As detailed in the mode of negotiations, the members of the HLTF are expected to collect information from stakeholders and

[49] EABC (2004), The East African Proposed Common External Tariff (CET), Brief on the Negotiations, Dar Es Salaam, 19th Jan 2004, p. 12

> present it as country positions. Private sector interests are sometimes ignored. Nothing comes into the agenda of the HLTF without being initiated by itself. Our submissions are always referred to it as 'a non paper'. This means it is not given the due attention it deserves…the manner in which negotiations are chaired cannot give chance to the EABC to air its views. The Chairperson always asks Uganda, Kenya and Tanzania positions on general subjects and this way, strong views of the private sector are ignored. In the Permanent Secretary's and Council of Ministers's meetings which are very important, the private sector is not always given the opportunity to participate or observe.[50]

The EABC Secretariat gave an example of when in an expert meeting of the Nomenclature Customs and Trade group, which is a sub committee of the HLTF, the Head of Delegation from Kenya, chased away the private sector from their team. It took the frantic efforts of appeal to the Kenyan authorities back in Nairobi to allow the Kenyan private sector into the negotiating room[51].

The East African Business Council (EABC) has consistently argued that the Protocol on the Establishment of the East African Customs Union was concluded without in-depth analytical studies on the impact it would have especially on the business community[52]. The question of trade imbalance between the three East African territories was one of the major causes of the break up of the old East African Community but it was not given adequate attention. The EABC complained that negotiations on the Common External Tariff (CET) were carried out without serious studies on the impact of the CET especially on the business community. It has been argued that the few studies that were carried out only focused on the Macro level impacts and failed to address Micro level impacts[53].

As already observed, the main forum for discussing trade issues in Uganda is the IITC. These issues on the East African Customs Union rarely featured. The representation at the critical stage of the negotiation of the Customs Union on this committee was still narrow, and unrepresentative. Much of the processes took place with little involvement of the members of this committee.

However, information from the members of the Private Sector Foundation indicates that a number of consultative meetings were held by the

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[50] ibid.

[51] ibid.

[52] ibid.

[53] J.Oloka-Onyango, op.cit., pg 5.

Foundation and proposals generated. During the negotiation of the East Africa Customs Management Act, Private Sector Foundation (Uganda), Uganda Manufacturers Association (UMA) and the Uganda Freight Forwarders Association (UFFA) held a consultative workshop in Kampala, which was attended by the majority of the stakeholders. This was one of the series of consultative meeting during the process of the negotiations. In December 2002, the Uganda technical Working Group (UTWG) organised a workshop to discuss regional integration issues. The workshop highlighted the key developments in the negotiation of the Customs Union. In Feb 2004, a briefing meeting was organised by UMA for its members especially on the Common External Tariff. At this meeting the Chairman indicated that the EABC was lobbying for an affiliate status to participate effectively in the negotiations. On the CET, the chairman East African Business Council communicated that the council successfully lobbied for a three-band tariff. It is therefore not true to say that private sector did not participate, said one of our respondents.

Further consultations with Uganda Manufacturers Association revealed that the Association has a sub-committee on the East Africa Community whose responsibility is to monitor regional developments and participate in the negotiations. In particular reference to the East Africa Customs Union the committee was charged with developing strategies for engagement in the negotiations. The participation of the private Sector was further corroborated by a series of other meetings that were attended by its officials within and outside Kampala.

It is important to note however, that the coming into force of the Customs Union produced highly negative reaction. In Kampala, traders were involved in several strikes. Consultations with the majority of the traders revealed ignorance of the outcomes of the negotiations casting doubt on the effectiveness of the consultations.

Kampala Traders on strike protesting increased taxes. Such strikes could have been averted if traders appreciated the short term impact of the E.African Customs Union.

Commenting on this issue, Secretary General Amanya Mushega described the discomfort of the Uganda Manufacturers Association (UMA) over the protocol as the "fear of the unknown." He argues that the business community failed to take the Customs Union seriously. But then one wonders why the reception was so negative. Professor Oloka has argued that either the consultants did not take the objections seriously or they did not listen to them[54]. It is therefore tenable to argue that the consultations were not effective. The majority of the studies that were done were largely initiated by government. The private sector did not participate in drawing the Terms of Reference and choosing critical areas of research. Consultations with un informed business community that did not appreciate the impacts of the positions adopted cannot pass as effective consultation.

6.0. MAKING STAKEHOLDER PARTICIPATION A REALITY FOR SUSTAINABLE REGIONAL INTEGRATION: RECOMMENDATIONS AND CONCLUSION

6.1. Operationalisation of the Concept of Multi-level and Multi-stakeholder Participation

The Treaty establishing The East African Community recognises that the success of the community will largely depend on the involvement and participation of the people in the community. As already observed, stakeholder involvement in the negotiation of the protocol was inadequate. There is therefore need for relevant government departments to increase access to information to stakeholders and ensure that there is an efficient feedback mechanism. Stakeholders ought to be provided with negotiating schedules and time frames to ensure predictable and smooth flow of information and input into the negotiations. The scope of consultations needs to be broadened to include a wide range of stakeholders and avoid a top-bottom approach that has hitherto been used in the process to establish the East African Community. Unless this approach changes the co-operation will be robbed of the opportunity of public participation and the associated benefits of multi-stakeholder participation. What is critically important now is to empower the citizenry by providing information surrounding the processes. There is a critical need for massive sensitisation of the population to appreciate the opportunities and challenges associated with regional integration.The population must be made to appreciate its role in the process of regional integration in order to make it sustainable.

[54] The private sector is a segment of the society involved in the production of goods and services that is not a part of the central or local government infrastructures.

6.2. Deepen the Involvement and Participation of Private Sector

The Treaty establishing the East Africa Community emphasises that the Community shall be market driven hence emphasising the role of the private sector.[54]Therefore full involvement of the business community is critical for the success of the Community. There is need for the government technocrats to regularly consult with the private sector in order to take care of concerns of this constituency. The relevant ministry should hold occasional briefing sessions in order to bridge the knowledge gap and create a sense of ownership. The government must as a matter of priority address infrastructure problems articulated in the Medium Term Competitive strategy to enable the sector to exploit its full potential in order to drive the regional economy.

6.3. Reviewing of the Accreditation Rules

During this research, a number of stakeholders expressed discomfort with the rules of procedure for granting the observer status. Civil society organisations are required apart from the general criteria, to bear a regional dimension with registration in each of the partner states. This requirement of registering in the three states is viewed as unnecessary inertia to regional integration. The basic consideration in addition to the general criteria should be whether the organisation has a regional dimension in its programme of work. The rules therefore to this extent need to be reviewed to make it possible for various stakeholders to participate in the regional integration processes that affect them. If regional integration is to be achieved, the community needs to remove such petty bureaucratic obstacles that stand in the way of closer cooperation.

6.4. Institutionalise National Consultative Structures

The key national consultative structure in Uganda on regional integration is the Inter-Institutional Trade Committee (IITC). The IITC has been acclaimed a useful and innovative consultative forum for trade policy formulation, implementation and evaluation as it involves a wide range of stakeholders including private sector and civil society. However, for sometime now it has been operating in an adhoc manner. It has not been recognised as a government body that attracts funding from the consolidated fund. It has not been accorded a legal existence and this has continued to undermine its effectiveness as a consultative forum. The IITC has four sub-committees the relevant one being a sub-committee on Regional Agreements and Bilateral Initiatives. This committee has been largely inactive since it was proposed in 2003.The Ministry of Foreign Affairs, which has been mandated to manage and co-ordinate regional integration processes should push for the operationalisation this sub-committee. This sub-committee could pick a leaf from the WTO and Cotonou sub-committees (now referred to as National Development and Trade Forum) (NDTF) where several stakeholders have been fully involved and have supported government technocrats in developing national positions in the international negotiations.

6.5. Civil Society and the Private Sector should become more pro-active

The Civil Society and Private Sector should refrain from waiting for invited spaces. They should become more pro-active and demand for spaces. There is need for closer cooperation between the two key stakeholders to lobby the national government and the secretariat for effective representation on the key negotiating structures.

7.0 CONCLUSION

In this paper we have argued that the process of regional integration has hitherto not been as participatory as envisaged by the treaty establishing the East African Community. This doesn't only undermine the potential benefits of multi-stakeholder participation but it dis- empowers the citizens from harnessing the potential benefits of regional integration. There is need to make the process more transparent and participatory by publishing the processes and mobilising all the constituencies to contribute to the strategies and provide policy options in matters that affect their livelihoods. Indeed, regional integration offers great market opportunities to the region but it also poses challenges that require concerted effort both from governments, private sector, civil society, legislators and the population. The involvement and participation of all actors in achieving total integration cannot therefore be over emphasised.

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