



# **Involvement of civil society in the Economic Partnership Agreement (EPA) between the European Union (EU) and the Southern African Development Community (SADC) EPA states**

STUDY



European Economic  
and Social Committee



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## **Study**

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## Table of Contents

Executive Summary .....	1
1. Introduction and project context.....	6
1.1 Project objectives .....	6
1.2 Project background and objectives .....	6
1.2.1 Initial objectives	6
1.2.2 Evolving objectives	6
1.3 Project context .....	7
1.4 Methodology .....	7
1.5 Case studies.....	8
1.6 Key stakeholders .....	8
2. CSO Engagement in the EPA and trade .....	9
2.1 Ex post evaluation of the EU-SADC Economic Partnership Agreement: Interim Report.....	9
2.1.1 CSO engagement	9
2.1.2 EPA related Development Cooperation	10
2.2 Consultations on CSO participation in EPA, and trade governance more broadly.....	10
2.2.1 Botswana	12
2.2.2 Eswatini	13
2.2.3 Lesotho	15
2.2.4 Mozambique	16
2.2.5 Namibia	17
2.2.6 South Africa	17
2.3 Civil Society Engagement in SADC on trade issues .....	18
2.4 Insights from the ILO Process .....	18
3. Country level assessment of CSO participation in governance.....	19
3.1 Comparative analysis of indicators on governance, transparency, and public participation of civil societies in the EU-SADC EPA Member States .....	19
3.1.1 Budget Transparency, Public Participation and Budget Oversight Indicator	20
3.1.2 Public Participation, Rights, and Inclusion	21
3.1.3 Voice and Accountability	22
3.1.4 Summary	22
3.2 National baseline.....	23
3.2.1 Botswana	23
3.2.2 Eswatini	24
3.2.3 Lesotho	25
3.2.4 Mozambique	26

3.2.5	Namibia	27
3.2.6	South Africa	28
4.	Case studies	28
4.1	National Economic, Development and Labour Council (NEDLAC) a gold standard but not replicable	28
4.1.1	NEDLAC is mandated by South African law	29
4.1.2	NEDLAC is a well-functioning body that successfully fulfils its mandate	29
4.1.3	NEDLAC’s strong performance is in contrast with the lack of similar organisations in other SACU+M countries	30
4.1.4	A measured approach to replicating NEDLAC’s role at a regional level should be taken	30
4.1.5	Integrating sustainable development in trade is more likely to be successful within the AfCFTA framework	31
4.2	AGOA and beyond- lessons for the EU GSP and possibly the EPA	31
4.2.1	Eligibility requirements	31
4.2.2	The African Growth and Opportunity Act (AGOA) Forum	34
4.2.3	Key innovations in US trade agreements	34
4.2.4	AGOA – EU, GSP and GSP+	35
4.2.5	Conclusions	35
4.3	CSO experience with the development of the SADC EPA Monitoring & Evaluation (M&E) Framework	36
4.3.1	Challenges facing engagement in monitoring and evaluation	37
4.3.2	Monitoring indicators	38
4.3.3	State of play and dynamics	38
5.	An examination of the role of the Consultative Committee of the CARIFORUM EPA in monitoring Sustainability chapters and all chapters of the EPA in comparison to the traditional DAGs and the situation in the SADC EPA.	39
5.1	Scope, roles and responsibilities, institutional structures	39
5.2	Achievements	40
5.2.1	The DAG of the EU-Korea FTA	40
5.3	Challenges facing the Consultative Committee	42
5.4	The regional-national dimension	43
5.5	Reflections	43
6.	Conclusions and recommendations	44
	Annex 1: Stakeholder List	48

## **Executive Summary**

The project objective is to assess CSO participation in the EU-SADC EPA signed in 2016 and offer recommendations to enhance CSO roles. The EPA focuses on trade and economic cooperation. Despite its potential, CSO involvement in the SADC region has been minimal.

As a result of the inception phase, which highlighted the lack of progress in CSO inclusion within the EPA's institutional structure and the resistance from certain SADC states to expand CSO participation, the objective evolved to (1) Analyse non-state actor/CSO roles in the EU-SADC EPA and assess their participation in trade and governance at the national level. (2) Offer policy recommendations for the EU-SADC EPA concerning CSO and social partner roles. The report includes three case studies: a. NEDLAC as a gold standard that offers an example for regional CSO engagement b. AGOA as a lesson for the EU's General System of Preferences (GSP) and in developing a simple complaint mechanism. C. CSO experiences with developing the SADC EPA Monitoring & Evaluation Framework.

The study looks at the state of Civil Society Organisation (CSO) engagement in the context of the Economic Partnership Agreement (EPA) between the EU and the SADC EPA States. It assesses how CSOs have interacted with the EPA and broader trade governance and finds that:

- **CSO Participation:** Initial involvement from 2002 to 2009 was minimal, limited to a few organisations, and has not substantially increased. Significant gaps in knowledge about the EPA persist, with weak advocacy and limited engagement in processes led by governments at the regional and national levels.
- **Regional vs. National Engagement:** There's a clear distinction between regional and national levels of CSO engagement. Despite commitments, resistance to CSO participation has persisted at the regional level. At the national level, the picture is mixed, with South Africa showing considerable engagement through platforms like NEDLAC while other states exhibit reluctance.
- **Specific situations in Botswana, Eswatini, Lesotho, Mozambique, Namibia, and South Africa** illustrate varying degrees of CSO involvement, from minimal to proactive, with unique challenges and levels of government openness to CSO dialogue.
- **Awareness:** There is a general lack of familiarity with the EPA among enterprises and organisations not directly involved in exporting to the EU, including CSOs, which affects the use of trade preferences.
- **Barriers to Involvement:** CSO engagement in the EPA process is hindered by insufficient enabling mechanisms, legal frameworks, or political will, resulting in a lack of transparency, inclusivity, and accountability.
- **Capacity and Trust Building:** Both are crucial for meaningful CSO involvement, with capacity building identified as a necessity for constructive contributions and trust building as key for progress in CSO-government relations

Looking beyond the EPA, at the SADC level, Trade Union engagement is limited to the employment and labour cluster. There is an initiative to establish a Non-State Actor Forum within SADC. However, the criteria for recognising “eligible” NSAs seems to be the political preoccupation.

**Insights from the ILO Process:** The International Labour Organization (ILO) has found non-uniform ratification and implementation of labour standards in the SADC region, with countries like South Africa making progress, while others lag behind. Regional dialogue is challenging.

The case study section of the document evaluates the National Economic Development and Labour Council (NEDLAC) of South Africa and its efficacy in facilitating multi-stakeholder dialogue on economic, labour, trade and development issues. NEDLAC is legally mandated to ensure inclusive growth and social equity through cooperative dialogue. It has successfully impacted policy, demonstrated by its contributions to the national minimum wage and economic recovery plans. The document also points to the potential for integrating sustainable development in trade agreements within the AfCFTA (African Continental Free Trade Area) framework, given the presence of strong continental bodies representing civil society, business, and labour.

While NEDLAC provides a model for successful stakeholder engagement in policymaking, its unique context means it may not be directly replicable in other settings.

The second case study is of the Africa Growth and Opportunities Act (AGOA). The study highlights the significant engagement of trade unions in the trade governance of the agreement, given that countries strive to meet and maintain their criteria to maintain trade preferences. Instances of suspensions are cited, along with examples where countries have made reforms to regain eligibility, demonstrating the act's influence on promoting social and economic policies.

The AGOA Forum serves as a key platform for multi-stakeholder dialogue, which includes civil society and trade unions. This engagement is a crucial element of AGOA and contrasts with the engagement of CSO in the EPA. The study also notes that the AGOA's targeted approach allows for specific companies to be penalised for non-compliance rather than affecting the exports of the entire sector. The AGOA process enables a balance in the enforcement of both labour and human rights through its inclusive dialogue and approach to compliance.

The conclusions and recommendations of the study highlight several key issues and proposed actions regarding CSO participation in the SADC-EU EPA:

1. **Trust Issues:** There is a significant "trust deficit" among SADC EPA States regarding the inclusion of CSOs in trade agreements, with concerns about being compelled to adopt EU social and environmental standards that could lead to new non-tariff barriers.
2. **Priority Differences:** SADC EPA States prioritise market access and compliance with existing standards over expanding CSO roles in trade agreements.
3. **Internal Scepticism:** There's also a lack of trust in local CSOs' capacity for meaningful participation in trade policy dialogue.
4. **Capacity and resources to engage:** the challenges of low levels of trust, a somewhat mismatched set of priorities and scepticism as to the value that CSOs can bring to the table are compounded by a noted lack of capacity and the resources to develop and define agendas. This was noted by both the CARIFORUM EU – Consultative Committee and in interviews with SADC EPA stakeholders. However, there are pockets of technical capacity among the CSOs that could be better harnessed.
5. **Comparative Success of AGOA:** AGOA's inclusive platform for CSOs and trade unions, particularly through the AGOA Forum, contrasts with the EPA's limited progress in CSO

involvement. However, AGOA's mechanism for CSO engagement was only possible because it did not require negotiation with SADC states – It is a unilateral preferential trade scheme.

The study suggests a dual approach to improving CSO participation:

- **Regional Level:** Implement a comprehensive engagement strategy (EPA+) to build trust around EU initiatives on sustainability (beyond the EPA), including setting up dialogue platforms. If SADC EPA states are resistant to having an EPA+ dialogue, the EU should consider a parallel process to the EPA dialogue.
- **National Level:** Enhance CSO participation in development programs and project management to build national trust. Continue capacity-building efforts for CSOs to engage more effectively in trade dialogue and governance, reassessing approaches to improve their effectiveness.

Overall, the study calls for continued efforts to build CSO capacity, increase trust, and foster a more comprehensive and inclusive dialogue on trade and sustainability issues.

With regards to the insights for the GSP and GSP+, the very targeted approach of AGOA appears to have made CSOs, trade unions in particular, less reluctant to “blow the whistle” on violations of e.g. labour standards. The reason given is that reporting a specific company does not necessarily put the exports of an entire sector at risk.



## **ABBREVIATIONS**

AGOA	African Growth and Opportunity Act
ATUSWA	Amalgamated Trade Union of Swaziland
CC	Consultative Committee
CSO	Civil Society Organisation
CSOs	Civil Society Organisations
DAG	Domestic Advisory Group
EPA	Economic Partnership Agreement
EU	European Union
EUD	EU Delegation
FIDA	Federation of Women Lawyers
GSP	Generalised System of Preferences
IDUL	Independent Democratic Union of Lesotho
IIAG	Ibrahim Index of African Governance
ILO	International Labour Organisation
ITAC	International Trade Administration Commission of South Africa
LCN	Lesotho Council of Non-Governmental Organizations
M&E	Monitoring & Evaluation
NACTWU	National Clothing Textile and Allied Workers Union
NEDLAC	National Economic Development and Labour Council
NSA	Non-State Actor
OBS	Open Budget Survey
PPDF	the Project Preparation and Development Facility
REIS	Regional Economic Integration Support
SACU	Southern African Customs Union
SADC	Southern African Development Community
SAf-CONGO	Southern Africa Congress of Civil Society Organisations, previously SADC CNGO
TRF	Trade Related Facility
TTFP	Transport and Transit Facilitation Programme
TUCOSWA	Trade Union Congress of Swaziland

UNITE	United Textile Employees
WGI	Worldwide Governance Indicators
WLSA	Women and Law in Southern Africa Research and Education Trust
WTO	World Trade Organization

## **1. Introduction and project context**

### **1.1 Project objectives**

Imani Development International has been contracted by the European Economic and Social Committee (EESC) to provide a Study on the Involvement of Civil Society in the Economic Partnership Agreement (EPA) between the EU and SADC EPA States. This project aims to assess the effectiveness and limitations of civil society organisations (CSOs) participation in the EU-SADC EPA. Based on these findings, the aim is to offer targeted recommendations for enhancing the role of CSOs.

### **1.2 Project background and objectives**

The European and Economic Social Committee (EESC) has recognised the need for organised social partners and CSOs to be involved in forming successful economic partnerships between the EU and Africa. The EESC specifically recommends strengthening the role of civil society and social partners in EPAs and creating consultative committees with them. While the EU and the SADC EPA States prepare to revise their current agreements, the EESC aims to conduct a study on the contributions of civil society and social partners.

#### **1.2.1 Initial objectives**

The study's initial objectives were:

**Objective 1:** Analyse the current role of non-state actors/civil society in the context of the EPA between the EU and SADC EPA States.

**Objective 2:** Examine the role of the Consultative Committee of the CARIFORUM -EU EPA in monitoring sustainability chapters and all chapters of the EPA in comparison to traditional Domestic Advisory Groups (DAGs) and identify best practices.

**Objective 3:** Provide policy recommendations for a mutually beneficial EU-SADC EPA regarding the role of civil society organisations and social partners.

#### **1.2.2 Evolving objectives**

During the inception phase analysis, the objectives of the study evolved to take into account the situation on the ground, in particular taking into account the absence of progress on CSO inclusion within the institutional structure of the EPA – mirroring the resistance of certain SADC EPA Member States to going beyond the current agreement in terms of CSO participation in the EPA.

**Objective 1:** Analyse the current role of non-state actors/civil society in the context of the EPA between the EU and SADC EPA States, and assess the participation of CSOs in trade, and governance more broadly, at the national level.

**Objective 2:** Examine the role of the Consultative Committee of the CARIFORUM -EU EPA in monitoring sustainability chapters and all chapters of the EPA in comparison to traditional Domestic Advisory Groups (DAGs) and identify best practices.

**Objective 3:** Provide policy recommendations for a mutually beneficial EU-SADC EPA regarding the role of civil society organisations and social partners.

The study aims to inform the ACP-EU Follow-up Committee's efforts to enhance civil society engagement in overseeing the execution of the EU-SADC EPA.

### 1.3 Project context

The EPA between the EU and the SADC EPA States, signed in 2016, aims to promote trade and economic cooperation. While the agreement facilitates market access primarily in agriculture and fisheries, it also lays the groundwork for broader economic development. Despite its potential, there needs to be more involvement from CSOs in the SADC region in the negotiations and subsequent implementation and monitoring of the EPA.

In stark contrast is the involvement of CSOs and trade unions (AGOA makes a distinction between CSOs and trade unions) in the AGOA, where in the 2023 Forum in South Africa, we saw the direct involvement of CSOs and trade unions from Southern Africa in dialogue platforms – with their participation directly affecting market access – and saw the South Africa Minister of Trade, Ebrahim Patel, share the platform with trade unions from both Africa and the United States.

### 1.4 Methodology

**Document Review and Policy Analysis:** A systematic review of relevant documents was conducted, including the ex-post evaluation of the SADC and CARIFORUM EPA, EPA agreements, applicable national laws and policies, meeting minutes, official memos, and prior research studies on similar agreements. This review helped in understanding the historical context and changes in policy over time concerning CSO participation.

**Stakeholder Analysis:** We conducted a stakeholder analysis to identify and categorize the main stakeholders in terms of their influence, interest, and involvement in the EPA processes with regards to CSO participation.

**Key Informant Interviews (KIIs):** We conducted key informant interviews to gather in-depth insights from a diverse range of stakeholders directly involved in or affected by the EPA. These stakeholders include representatives from the European Commission, EU Delegations, trade unions, umbrella NGOs, and other key institutional stakeholders within the SADC member states. Interviews were undertaken using a semi structured interview guide that allowed flexibility in exploring topics while ensuring that all relevant subjects are covered. Interviews were conducted virtually. Each interview lasted approximately 60-90 minutes, and all interviews were recorded with the consent of the participants for accuracy in data analysis.

## 1.5 Case studies

### Case studies of three SADC EPA Member States

- a. NEDLAC: a gold standard but hardly replicable
- b. AGOA and beyond: lessons for the EU General System of Preferences (GSP)
- c. CSO experience with developing the SADC EPA Monitoring & Evaluation (M&E) Framework.

## 1.6 Key stakeholders

Key stakeholders directly involved in the EPA have been the initial priority for consultations.

<b>SADC EPA Unit in Botswana</b>
<b>EU Delegations to Mozambique, South Africa, Eswatini, Lesotho, Namibia, and Botswana</b>
<b>European Commission's Directorate- General for Trade (DG Trade C1)</b>
<b>EU-CARIFORUM Consultative Committee</b>

Of the CSOs with a regional mandate for monitoring the EPA, we have interviewed SATUCC, SAF-CNGO and SAT.

<b>Southern Africa Trade Union Coordination Council (SATUCC)</b>
<b>Southern Africa Council of NGOs (SAf-CNGO)</b>

Key organisations that run technical assistance programmes, such as outreach facilities and development programmes to support CSOs, have been contacted, as well as the International Labour Organisation (ILO)

<b>South African Institute of International Affairs (SAIIA)</b>
<b>DNA Economics</b>
<b>GIZ – NEW Project</b>
<b>ITC</b>
<b>International Labour Organisation</b>

The national stakeholders consulted include those set out below.

<b>SADC Member States</b>	<b>National Stakeholders Consulted</b>
<b>South Africa</b>	NEDLAC: SANGOCO, NACTU and COSATU; AGBIZ, Apparel Manufacturers of South Africa.
	SA-EU Dialogue Facility
<b>Mozambique</b>	JOINT-Ligas de ONGs
<b>Botswana</b>	Botswana Council of NGOs
	Botswana Mineworkers Union
<b>Namibia</b>	Namibian Agricultural Trade Forum
	Namibia Non-Governmental Organisations Forum
<b>Eswatini</b>	Trade Union Congress Eswatini

	Amalgamated Trade Union of Swaziland
	Coordinating Assembly of Non-Governmental Organisations

## 2. CSO Engagement in the EPA and trade

Initial participation between 2002 and 2009 involved only a small number of CSOs such as trade unions, farmers' organisations, and research think tanks. Over the past 12 years, most CSOs have remained uninvolved, leading to a significant knowledge gap on EPA provisions, weak advocacy, and limited engagement in government and private sector-led processes. This lack of participation has reinforced a cycle of low capacity, poor coordination, and minimal resource mobilisation among CSOs.

While there has been effort through discussions and events to enhance CSO participation, the effort towards implementation is lacking. In December 2017, the SADC-EU EPA group brought together representatives from business, labour, research institutions and non-governmental organisations, including environmental and social rights groups from Botswana, Lesotho, Mozambique, Namibia, South Africa and Swaziland for the Civil Society Forum in South Africa. The forum concluded with various recommendations, such as enabling access to information tools and communication and developing a platform for engagement between the CSOs and their stakeholders. However, the recommendations have yet to be followed up on in the implementation.<sup>1</sup>

### 2.1 Ex post evaluation of the EU-SADC Economic Partnership Agreement: Interim Report

#### 2.1.1 CSO engagement

The interim report of the evaluation of the EU-SADC Economic Partnership Agreement (EPA) highlighted the limitations in its institutional provisions and engagement with civil society compared to other EU trade agreements. Despite efforts such as civil society dialogue meetings in 2017 and 2018, recommendations for enhanced outreach and a permanent civil society platform have yet to be fully implemented.<sup>2</sup> Commitments made by both EU and SADC EPA States in February 2019 at the TDC and the Joint Council<sup>3</sup> to facilitate annual meetings to discuss EPA-related issues and EPA's implementation between non-state actors from the EU and SADC EPA States have not materialised. This is mainly due to the lack of readiness of SADC EPA states to engage meaningfully in dialogue.

The ongoing evaluation found civil society engagement regarding EPA matters varies across SADC EPA States. This limited engagement has led to a lack of transparency, inclusivity, and accountability in implementing EPA provisions. Moreover, awareness of the EPA outside of directly involved businesses and organisations remains low, particularly among civil society groups. Importers and users

<sup>1</sup> TDC, February 2018; TDC, February 2019; TDC, February 2020a; TDC February 2021; TDC November 2021; TDC, November 2022.

<sup>2</sup> European Commission, BKP Economic Advisors, 'Ex-post evaluation of the EU-SADC Economic Partnership Agreement', Interim Report, November 2023, available [here](#)

<sup>3</sup> Ibid, (European Commission, 2020d).

of imported inputs, such as the fishing sector in Mozambique, often underutilise the preferences granted by the EPA due to a lack of awareness or understanding of its benefits and requirements.<sup>4</sup>

### 2.1.2 EPA related Development Cooperation

The comprehensive evaluation of EU-SADC cooperation between 2013 and 2019 concluded that this cooperation had “been effectively contributing to results of regional integration.” Based primarily on an assessment of the Regional Economic Integration Support (REIS) programme, the Trade Related Facility (TRF), and the Project Preparation and Development Facility (PPDF) and the cross-regional Transport and Transit Facilitation Programme (TTFP), that evaluation concluded that the programmes “delivered an impressive number of activities, products and services, supporting a notable number of results across different areas of regional integration, particularly related to trade, transport, transit, finance and EPA”.<sup>5</sup>

At the same time, it notes several challenges: “Areas where results were below expectations include overall trade facilitation and trade-related outcomes, EPAs (viewed as too slow), policy dialogue and harmonisation, citizens awareness, capacities at all levels, private sector involvement and support, civil society involvement and support, governance mechanisms, mobilisation of FDI. In general, results at the level of Member State have been appraised by external evaluations as low”.<sup>6</sup>

### 2.1.3. Awareness of the EPA

The evaluation also found that beyond the enterprises and organisations actively exporting to the EU, there seems to be a general lack of familiarity with the Economic Partnership Agreement (EPA), particularly for civil society organisations. Similarly, importers and those utilising imported materials often appear unaware of the advantages the EPA offers and the compliance necessary to benefit from these trade preferences.

## 2.2 Consultations on CSO participation in EPA, and trade governance more broadly

When assessing engagement in the EPA, we have found it helpful to characterise engagement along the following lines. Firstly, according to whether engagement is at the regional or national level. Secondly, whether engagement relates to (a) development cooperation and technical assistance, (b) trade governance, including implementation, monitoring and evaluation and disputes, or at least areas of disagreement.

Our consultations with EU Delegations, the programmes that support CSO participation in EPA matters, SATUCC, SAf-CNGO, the SADC EPA unit and COSATU, suggest:

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<sup>4</sup> Ibid

<sup>5</sup> European Commission, BKP Economic Advisors, ‘Ex-post evaluation of the EU-SADC Economic Partnership Agreement’, Interim Report, November 2023, available [here](#)

<sup>6</sup> *ibid*

At regional level:

- a. Some, not all, SADC Member States strongly resist the inclusion of CSO participation within the SADC—EU EPA institutional structures or enabling CSO-CSO dialogue, notwithstanding the commitments made in 2017 to do so.
- b. In addition, several SADC Member States are resistant to the inclusion of anything but strictly trade-related matters when it comes to implementing the EPA. There even seems to be a disinterest in including CSOs in the monitoring and evaluation of the EPA at the regional level, an area where the EPA has made provisions. The reason behind this is fear of this resulting in barriers to market access. There are nuances, however. In some instances, for example in Botswana, there seems a relatively hard line that can be characterised as: “trade in trade agreements; labour issues within the ILO; and the environment within the COP”.
- c. Even stakeholders that view relatively favourable the inclusion of CSO in trade and a more comprehensive framework for sustainable development, some of the Unions – that are keen to see labour issues within trade agreements – are **wary of the manner of implementation**. For example, there is a concern over the **definition of child labour**; they noted that while this is relatively straightforward to define within the industry, it is much more complex for smallholder farmers.<sup>7</sup> Therefore, they see substantial risks for market access until such issues are clarified and agreed upon. There was also concern over the **implications for an entire sector** for violating, e.g., labour rights by only a few factories. With such high levels of unemployment, even trade unions are cautious about balancing worker rights with job creation or job loss.
- d. There is, however, some signalling from Member States that **Private Sector Organisations** could be included, but **not with a mandate for dialogue beyond strictly trade matters**.
- e. A waning interest in the EPA by Civil Society, now they have been implemented, was also noted in several countries. Reasons put forward to explain this have highlighted three factors:
  - i. Limited impact of the EPA: the implementation of the EPA has not resulted in significant disruption of SADC EPA States economies.<sup>8</sup>
  - ii. Awareness and Capacity: The evaluation of the EPA highlighted a recurring challenge: low awareness and understanding of the EPA among CSOs, particularly those not focused on trade. This lack of knowledge hinders meaningful engagement from civil society, as many organisations lack the expertise to contribute to discussions on trade agreements. The multiple capacity-building programmes that targeted CSOs’ participation in EPA monitoring had limited results. This observation was confirmed by the comprehensive evaluation of EU-SADC cooperation from 2013 to 2019.<sup>9</sup>
  - iii. Other issues with the EU are higher priority: the issues raised in interviews tended to focus on market access, in particular (a) the effective utilisation of

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<sup>7</sup> In interview, the Namibian Trade Forum also noted that the attempt by the UK to include a child labour provision in the SACU + M – UK EPA had been a stumbling block.

<sup>8</sup> Cipollina, M. (2022). The Trade Growth under the EU–SADC Economic Partnership Agreement: An Empirical Assessment. *Economies*, 10(12), 302. <https://doi.org/10.3390/economies10120302>

<sup>9</sup> Available [here](#)



preferences given challenges of compliance with standards and rules of origin and (b) concerns over the “Non-Tariff Barriers” the EU is bilaterally introducing in the form of the CBAM, deforestation regulations and labour standards. There is uncertainty over what these may mean for trade with the EU.

***An increasingly negative sentiment towards integration within SACU may also be playing a role:***

Several commentators noted an increasingly negative sentiment towards integration within SACU. Issues cited included Botswana’s ever-increasing import bans from South Africa, the increasing focus on bilateral trade relationships in Namibia with Angola and Zambia, and the struggles to develop a strategy and resource plan for SACU itself. The lack of progress on including CSOs in the EPA process at the regional level may, in part, reflect a broader malaise with SACU itself.

At national level:

- a. In most SADC Member States there appears to be little interest in CSO engagement in the EPA process and resistance to any involvement outside technical assistance.
- b. South Africa is an obvious exception to this, with the NEDLAC and the Agricultural Trade Forum engaged in trade negotiations (the ATF was directly involved in the Poultry Safeguard case—this is a case study under the ex-post evaluation of the SADC EPA). In Eswatini, we did find commitment to engage CSOs in capacity-building programmes, but not within the permanent decision-making structures guiding the programmes.
- c. Outside the EPA, standout dialogue arrangements include trade, such as NEDLAC in South Africa.

### 2.2.1 Botswana

Interviews with the Ministry of Trade and support programmes to the SADC EPA suggest that Botswana’s (unofficial) position is that it is too early to actively involve CSOs and trade unions in trade negotiations and trade governance. The private sector has a role to play in trade governance, but the engagement scope must be limited to trade only. Labour issues are to be addressed through International Labour Organisation (ILO) processes and environmental issues through the COP and other multilateral and bilateral dialogues. The concern is that social and environmental standards end up non-tariff barriers, if not by design, then by default. More time is needed to gain a fuller understanding of the EPA before new elements are introduced.

With regard to Civil Society involvement in trade governance, more broadly, the leading platform is the **High-Level Consultative Committee (HLCC)**. This committee is a tripartite body comprising government, labour (the Botswana Federation of Trade Unions), and business representatives and is presided over by the head of state. It addresses policy, new laws, and international agreements affecting labour, including trade-related matters.

To gain insight into CSO involvement in trade matters, the umbrella organisation for CSOs in Botswana – Botswana Civil Council of Non-Governmental Organisations (BOCONGO), directed us to the Botswana Mine Workers Union (BMU).

### **Botswana Mine Workers Union's Advocacy and Involvement**

*Advocacy for Mine Workers' Rights:* The Botswana Mine Workers Union (BMU) champions workers' rights in the mining sector, advocating for improved working conditions and equitable policies. They ensure the workers' voices are heard in policy-making and sustainable development. The BMU works with various government levels to represent mine workers' interests, particularly in matters related to trade and mining policies. Through its affiliation with the Botswana Federation of Trade Unions, it engages with the government at the HLCC.

*Critique of Trade Policy Engagement:* The union actively seeks to shape trade policy and agreements, advocating for labour input through revived advisory committees and integrating labour standards. However, they expressed concerns over the insufficient involvement of unions and civil society in trade policy development, advocating for broader dialogue and consultation.

*Capacity Building for Influence:* The BMU acknowledged the need for stronger capabilities to influence trade negotiations effectively, emphasising the need for specialised knowledge and skills.

#### 2.2.2 Eswatini

The EUD in Eswatini highlighted the absence of an explicit dialogue framework on the EPA and recognised the need for trust-building measures with the government if the CSOs role in trade governance is to make progress. Within development cooperation and technical assistance, there has been a concerted effort to involve CSOs in technical assistance through engagement in project steering committees. The Delegation noted that support for the EPA is part of a comprehensive package aimed at the private sector's competitiveness, making it easier for broader buy-in to implement the agreement and not seeing it as a requirement the EU is paying for.

#### *CSO involvement in trade development cooperation and capacity building:*

A key NGO umbrella organisation in Eswatini is the Coordinating Assembly of Non-Governmental Organisations (CANGO). The consultations with CANGO revealed that TUCOSWA and Business Eswatini are the key organisations dealing directly with trade issues. CANGO, however, has contributed to civil society participation in trade-related matters in the region: (1) SADC Integrated Institutional Capacity Building Project: This project was focused on SADC regional integration, where CANGO's objective was to build institutional capacities for better engagement in regional integration efforts. (2) Engagement with the Africa Continental Free Trade Agreement (AfCFTA): CANGO was involved in preliminary discussions and awareness creation regarding the AfCFTA for UNECA's National Implementation Strategy. They contributed from a CSO perspective, aiming to understand the agreement's benefits, protocols, and implications for the regional economy. (3) Partnerships for Trade and Entrepreneurship Promotion: CANGO partnered with various entities, including government ministries and investment promotion authorities, to promote trade and entrepreneurship. This included working with the Ministry of Commerce on similar initiatives, particularly the informal trading wing, Eswatini Investment & Trade Promotion Authority (EIPA), and the Small Enterprise Development Company (SEDCO). These partnerships focused on creating awareness about trade agreements, entrepreneurship engagement, regional integration, border management, and online security for traders. (4) Capacity Building for CSOs, CBOs, and Entrepreneurs: CANGO engaged in capacity-building activities targeting community-based organisations (CBOs), CSOs, and local entrepreneurs. This involved providing information on trade agreements, regional integration, border management, and

business registration processes. The empowerment of women entrepreneurs and indigenous women through collaboration with ‘Women in Trade’ was a priority.

*CSO involvement in trade governance: Trade Union Congress of Eswatini (TUCOSWA) and labour rights under AGOA:*

TUCOSWA serves as the primary representative body for workers in Eswatini, advocating for labour standards and improved working conditions across various sectors. Its influence extends regionally and globally through partnerships with multiple affiliates. In the Southern African region, TUCOSWA collaborates with entities like COSATU, ZCTU, BFTU, NUNW, and LCTU to address common labour issues, exchange information, and advocate for fair wages and safe working conditions. These regional alliances bolster TUCOSWA's efforts to promote workers' rights in Eswatini and throughout the Southern African region.<sup>10</sup>

Internationally, TUCOSWA's partnerships with ITUC, PSI, ILO, IndustriALL Global Union, and UNI Global Union provide avenues for accessing global networks, resources, and expertise. Through these affiliations, TUCOSWA engages in global campaigns, training programmes, and advocacy initiatives to advance workers' rights internationally. These alliances amplify TUCOSWA's voice and enable it to contribute effectively to promoting social and economic justice for workers worldwide.<sup>11</sup>

TUCOSWA's involvement in the African Growth and Opportunity Act (AGOA) is intertwined with Eswatini's suspension from the program in 2015, primarily due to violations concerning workers' and human rights, notably the refusal to register trade unions like ATUSWA and TUCOSWA. This suspension spurred urgent calls from unions, including TUCOSWA, to reinstate Eswatini's AGOA status, shedding light on the importance of adhering to international labour standards within trade agreements like AGOA. TUCOSWA's engagement in discussions surrounding Eswatini's eligibility for AGOA shows the complexities and challenges faced by countries participating in this trade programme, highlighting the necessity for comprehensive social dialogue involving all stakeholders.

The meeting between ATUSWA and TUCOSWA emphasised fundamental principles of international labour standards, urging the Eswatini government to uphold human rights, democracy, and the rule of law. In advocating for Eswatini's readmission to AGOA, TUCOSWA and its counterparts stressed the importance of inclusive strategies encompassing small-scale indigenous Eswatini enterprises and cooperatives. By focusing on the protection and creation of jobs, particularly within the textile and apparel industry—a significant source of employment, particularly for young women—TUCOSWA aims to safeguard existing employment opportunities and foster sustainable industrial policies that benefit the broader workforce.<sup>12</sup>

TUCOSWA's decision to support Eswatini's readmission to AGOA was informed by comprehensive consultations and assessments, including active participation in an International Labour Organization review process. Recognising the substantial impact of the suspension of AGOA potentially affecting over 17,000 jobs in Eswatini, TUCOSWA has mobilised efforts to recruit more members, particularly

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<sup>10</sup> TUCOSWA, <https://tucoswa.com/about-us/>

<sup>11</sup> TUCOSWA, <https://tucoswa.com/reg-int-affiliates/>

<sup>12</sup> *ibid*

young workers, to strengthen the collective fight for better working conditions and wages.<sup>13</sup> Overall, TUCOSWA's collaborative efforts with other trade unions in Eswatini underscore a shared commitment to advocate for the country's readmission to AGOA, emphasising the critical importance of protecting jobs, promoting sustainable industrial policies, and ensuring the respect of workers' rights within trade agreements.

### 2.2.3 Lesotho

The EUD noted the absence of a structured dialogue on trade that includes CSOs and the private sector but highlighted the scope for CSOs' engagement in development cooperation and capacity building in EU programmes. As with Eswatini, support to the EPA is part of a broader package to promote sustainable development. CSOs participate in project steering committees. However, their participation is by invitation, not by right.

#### *CSO involvement in dialogue and trade development cooperation and capacity building:*

The Lesotho Council of Non-Governmental Organisations is an umbrella organisation for NGOs in Lesotho. It was established in May 1990 to provide supportive services to the NGO Community. The Lesotho Council of Non-Governmental Organizations (LCN) engages in policy dialogue in Lesotho through its active involvement in various projects and initiatives: (1) Lesotho National Dialogue and Stabilisation Project (LNDSP): LCN collaborates with the United Nations and other partners in implementing the LNDSP, focusing on consensus building for national reforms. LCN actively engages in policy dialogue by providing input and recommendations on crucial reform areas such as governance, security, and socio-economic development. This contributes to developing policy frameworks and strategies for Lesotho's transformation.<sup>14</sup> (2) Capacity Building Project (CBP): Through the ACBF Capacity Building Project, LCN enhances NGOs' capacity in Lesotho to engage effectively in development processes. By strengthening policy analysis and advocacy skills, LCN empowers member organizations to participate more actively in national-level policy dialogue, promoting good governance and accountability.<sup>15</sup>

#### *CSO involvement in trade governance: GBVH in clothing and textiles and AGOA*

U.S.-based Worker Rights Consortium (WRC) documented that the mostly female workforce at three Nien Hsing textile factories in Lesotho was regularly coerced into sexual activity with supervisors as a condition of employment or promotion, and identified GBVH as a central concern. With the US Embassy raising concerns with the Government of Lesotho, risking access under AGOA, Lesotho trade unions and women's organisations, working with US partners, negotiated a binding agreement with the employer and the three sourcing brands of Levi Strauss, The Children's Place, Kontoor Brands. This established a complaint mechanism and protected the rights of workers who use it. The Federation of Women Lawyers in Lesotho (FIDA), the Independent Democratic Union of Lesotho (IDUL), the National Clothing Textile and Allied Workers Union, Lesotho (NACTWU), the United Textile

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<sup>13</sup> Press Statement on the Eligibility of Swaziland US African Growth and Opportunity Act, ITUC, 2017, available here [https://ituc-africa.org/IMG/pdf/press\\_statement\\_on\\_the\\_eligibility\\_of\\_swaziland\\_us\\_african\\_growth\\_and\\_opportunity\\_act.pdf](https://ituc-africa.org/IMG/pdf/press_statement_on_the_eligibility_of_swaziland_us_african_growth_and_opportunity_act.pdf)

<sup>14</sup> Hindowa B. Momoh, Lesotho National Dialogue and Stabilization Project (LNDSP), End of Project Evaluation Report, 2020, available [here](#)

<sup>15</sup> Capacity Building Project to Strengthen the Lesotho Council of NGOs (LCN), Lesotho Council of NGOs, 2012, available here <https://acbf-pact.org/what-we-do/how-we-do-it/grants/projects-regions/eastern-southern-africa/lesotho/capacity-building>

Employees (UNITE) and Women and Law in Southern Africa Research and Education Trust (WLSA)-Lesotho administers the agreement and serves on the oversight committee.<sup>16</sup>

The Evaluation of the EPA notes the differences between the arrangements under the EPA and the AGOA “*as there are no monitoring discussions under the EPA TSD chapter, nor dialogue with civil society, there are no easily accessible channels where concerns related to workers’ rights or working conditions in the exporting sectors could be raised with the EU side and/or SADC EPA States in the context of the EPA implementation*”.<sup>17</sup>

#### 2.2.4 Mozambique

Consultation with the EUD Mozambique highlighted the low capacity to engage on trade issues by civil society, which meant that their contributions when invited were not constructive which compounded an indifference towards their inclusion by Government in the first place. The EPA support programme, Promove Comercio, has supported CSO involvement – in particular an attempt to develop an M&E framework that reflected CSOs’ interests in gender, labour rights, youth unemployment etc. – however, progress has been limited.

*CSO involvement in dialogue and development cooperation and capacity building, but little on trade:* JOINT (Liga das ONG em Moçambique), is an umbrella organization that represents and coordinates the efforts of CSOs in the country. JOINT was established in 1995 as a response to the growing need for a platform that would unite and amplify the voices of civil society organizations in Mozambique. It was formed through the collaboration of several prominent CSOs, including the Mozambican Women's Association (MWA), the Mozambican Association of Non-Governmental Organizations (AMACO), the Training and Research Institute (FTI), and the League of Associations for Human Rights (L.A.D.C), among others.

Initially, JOINT focused on providing a space for dialogue, coordination, and information sharing among CSOs. Over time, it expanded its role to include advocacy, capacity building, and policy engagement, aiming to strengthen the effectiveness and impact of CSOs in Mozambique.<sup>18</sup> (1) Policy Dialogue: JOINT has actively engaged with policymakers and government institutions to advocate for the rights and interests of marginalized groups and promote good governance. By participating in policy dialogue, conducting research, and providing evidence-based recommendations, JOINT has contributed to the formulation and implementation of inclusive and people-centred policies in Mozambique. (2) Capacity Building programmes: through capacity-building programmes, trainings, and workshops, JOINT has enhanced the organizational and technical capacities of its member organizations, enabling them to deliver more effective services and programmes. (3) Monitoring and Evaluation: JOINT has developed monitoring and evaluation tools and frameworks to assess the impact of government programmes and policies on vulnerable populations. By conducting research and producing evidence-based reports, JOINT has helped in holding the government accountable. (4) Strengthening Civil

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<sup>16</sup> [Available here](#)

<sup>17</sup> European Commission, BKP Economic Advisors, ‘Ex-post evaluation of the EU-SADC Economic Partnership Agreement’, Interim Report, November 2023, available [here](#)

<sup>18</sup> JOINT, available here, <https://www.joint.org.mz/page>

Society: By facilitating networking opportunities, promoting collaboration, and providing technical support, JOINT has fostered a strong and united civil society movement in the country.

### 2.2.5 Namibia

The consultation with EUD Namibia highlighted issues in civil society's engagement with trade, particularly in the EU-SADC EPA. Challenges include small teams' limited capacity for structured dialogues, the need for strong umbrella organizations for effective civil society participation, and reliance on donor support for sustainability. It noted efforts in advocacy capacity building in Namibia, identifying potential partnership organizations and tackling complex trade issues.

Namibia's EPA implementation features collaboration and capacity-building with groups like the Economic Association of Namibia and the Namibia Trade Forum. These efforts aim to support institutions, enhance trade infrastructure, and align local practices with EU standards. The EPA Trade Forum was a key event to improve understanding of the EPA and its benefits.

The government remains cautious about involving civil society in trade discussions due to unclear roles and a traditional reluctance to involve non-state actors in formal trade-related negotiations.

*A platform for trade dialogue: Namibian Trade Forum (NTF).* The Namibia Trade Forum serves as a platform for trade-related activities in Namibia, facilitating trade discussions, policy formulation, and economic development initiatives. The forum aims to enhance Namibia's trade environment, promote international trade relations, and support business growth within the country.<sup>19</sup> The forum has played a significant role in enhancing trade policies, supporting economic growth, and facilitating international trade relations for the benefit of Namibia's economy.<sup>20</sup>

The NTF has been relatively successful in providing valuable insights for businesses operating in Namibia and given them a voice.<sup>21</sup> However, in discussion there was recognition of the need to more fully engage civil society and to broaden discussions to social and environmental issues. A familiar pattern emerged, with Civil Society feeling alienated from the dialogue on trade which, coupled with a limited capacity to articulate a positive agenda, often meant that their involvement in the platform – when invited – was not constructive. This, in turn, tends to undermine support for their further engagement.

The importance of trust, as well as capacity, building was emphasized.

### 2.2.6 South Africa

South Africa's CSOs operate within a structured legal framework that supports their involvement in various sectors, including human rights, health, education, and environmental conservation. They are

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<sup>19</sup> NTF, available here <https://ntf.org.na/about-us/>

<sup>20</sup> Trade Policy Framework: Namibia - UNCTAD [[https://unctad.org/system/files/official-document/ditctncd2016d2\\_en.pdf](https://unctad.org/system/files/official-document/ditctncd2016d2_en.pdf)]

<sup>21</sup> Economic Partnership Agreement (EPA) Trade Forum: Monday, 31 October 2022 – Windhoek, EUD Namibia, available here [https://www.eeas.europa.eu/delegations/namibia/economic-partnership-agreement-epa-trade-forum-monday-31-october-2022-windhoek\\_en?s=112](https://www.eeas.europa.eu/delegations/namibia/economic-partnership-agreement-epa-trade-forum-monday-31-october-2022-windhoek_en?s=112)

essential in addressing the legacy of apartheid, reducing inequality, and empowering marginalized communities. Consultations with the EU Delegation to South Africa revealed that there is little to no engagement of civil society organisations in the EPA.

However, there are national platforms that are very actively involved in trade dialogue and governance. A standout is the National Economic Development and Labour Council (NEDLAC) which brings together Government, Business and Unions (COSATU) on a wide range of issues, including trade. It is currently engaged in internal deliberations on a social clause for South African trade agreements. NEDLAC has been chosen as one of the case studies for this report.

### 2.3 Civil Society Engagement in SADC on trade issues

Article 23 of the SADC foundation treaty states that ‘SADC shall seek to involve fully the people of the region and key stakeholders in the process of regional integration’. In terms of realising this objective, civil society engagement in SADC is enabled through the Southern Africa Development Community Council of Non-Governmental Organizations (SADC-CNGO) – now SAF- CONGO - , formed in 1998 as a coordinator for NGOs at the regional level, and the SADC Civil Society Forums. At national level, SADC national committees (SNC) can provide a channel for civil society involvement. The Civil Society Forums has been influential on the SADC Agenda through the ‘‘SADC We Want’’ campaign, and where instrumental in the EU – SADC CSO engagement in 2017. However, ‘‘civil society demands that materialized in the resolutions issued during SADC Civil Society Forums are in fact marginalized from the SADC decision-making system. This is due to ‘the deeply rooted statism in Southern Africa that tends to not place a high level of importance on non-state actor engagement’’.<sup>22</sup>

With regard to Trade Unions engagement, institutionally, dialogue is within the employment and labour cluster of SADC which involves the unions and employers and is led by the Ministers of Labour. Outside of this cluster, there is very little engagement with trade unions, and there is little opportunity to dialogue on trade and industry, ‘‘let alone the EPA’’.

There is a Non-State Actor Forum being established at SADC but, according to SATUCC, participation of the unions has been ‘‘little to zero’’. And rather than focussing in enabling information flow and dialogue, the main point of concern from officialdom seems to relate to identifying ‘‘eligible’’ trade unions to include in the dialogue. With regards to eligibility there has been some progress made with the guidelines presented to the SADC Committee of the Ministers of Trade in March 2023. However, interviews suggest there has been little to no consideration of trade issues to date.

### 2.4 Insights from the ILO Process

The International Labour Organization (ILO) emphasised the non-uniform ratification and implementation of its labour conventions and overall labour standards in the SADC region. While countries like South Africa demonstrate progress, the region faces challenges in applying these standards uniformly, which can have significant implications for labour rights within trade agreements. The ILO identifies critical social issues such as gender equality, child labour, and youth unemployment,

<sup>22</sup> Ramanzini Junior, H., & Theodoro Luciano, B. (2021). Regional (dis)integration beyond governments: A comparison in social and civil society participation between Mercosur and SADC. *International Area Studies Review*. <https://doi.org/10.1177/22338659211005587>

advocating for these to be addressed in trade agreements to ensure they reflect the diverse social priorities of the region.

The ILO operates through a tripartite model involving governments, employers, and workers to address labour issues, a framework that could inform more inclusive trade discussions. The organization highlights the effectiveness of such collaborative processes in certain countries but points out varying success across the region, stressing the need for trade agreements to include robust mechanisms for labour standards enforcement. The ILO emphasized the importance of trade union participation in trade negotiations and that trade unions across various African nations are grappling with significant inadequacies in capacity when it comes to dealing with complex trade issues. The ILO supports trade union efforts through capacity-building programs, advocacy, and education. The organization works closely with the International Trade Union Confederation (ITUC) to build the capacity of unions to engage in trade negotiations and promote labour rights. The engagement of trade unions in the EPA and other trade agreements like AGOA, AFCFTA, and SADC is seen as insufficient, with a lack of effective opportunities for unions to participate.

The strength of unions varies widely in Southern Africa; Botswana, for example, was cited as having particularly weak unions and a notable absence of NGOs that can work with these unions on trade matters. These challenges are compounded by a lack of transparency.

Finally, the ILO reported that there is a notable scepticism surrounding the European Union's interaction with African countries, not just among trade unions but extending to governmental entities, and in particular whether there is a genuine commitment to market access. There is a concern that sustainability – be it with regards to social or environmental issues – will be used to block exports if there is any disruption on the EU market. This skepticism may help explain the reservations of the continent about the EU's approaches on sustainable development.

### **3. Country level assessment of CSO participation in governance**

With such variety in the extent and nature of CSO participation in the EPA and trade more broadly, we briefly examine CSO participation in governance at national level to gain insight as to whether the situation in trade reflects the broader national situation.

#### **3.1 Comparative analysis of indicators on governance, transparency, and public participation of civil societies in the EU-SADC EPA Member States**

The following indicators provide a comprehensive overview of several key indicators used to assess governance, transparency, and public participation across the selected SADC countries. These indicators are:

- I. Open Budget Survey (OBS) measures national budget transparency, oversight, and public participation in 120 countries. The survey assesses whether governments are transparent about how public money is raised and spent, whether there are effective oversight mechanisms in place, and whether the public has a meaningful role in shaping budget decisions.<sup>23</sup>

<sup>23</sup> Open Budget Survey, available here <https://internationalbudget.org/open-budget-survey/>



- II. Ibrahim Index of African Governance (IIAG) <sup>24</sup> Participation Rights and Inclusion evaluates the presence of free and fair elections, political pluralism, freedom of expression and association, and other factors related to political participation and inclusion.<sup>25</sup>
- III. The Worldwide Governance Indicators' (WGI) <sup>26</sup> "Voice and Accountability" metric encapsulates the citizens' capacity to participate in the selection of their government, express themselves freely, associate through various platforms, and access an independent media.

### 3.1.1 Budget Transparency, Public Participation and Budget Oversight Indicator

The Open Budget Survey (OBS) findings outline a stark contrast in budget transparency, public participation, and budget oversight among the EU-SADC EPA States.

Open Budget Survey Indicators	Botswana	Eswatini	Lesotho	Mozambique	Namibia	South Africa
Transparency	34	31	26	45	42	86
Public Participation	6	2	2	18	0	19
Budget Oversight	52	41	20	44	48	81

Transparency:

- **South Africa** emerges as a leader in budget transparency with a score of 86/100. This score signifies a strong commitment to making budget documents available to the public, which is crucial for accountability.
- **Mozambique** (45/100) and **Namibia** (42/100) show moderate transparency levels, suggesting that while budget information is available, there might be room for increased accessibility or more detailed disclosures.
- **Botswana** (34/100), **Eswatini** (31/100), and **Lesotho** (26/100) trail with lower scores, indicating that significant improvements are needed to ensure that the public has adequate access to budget information.

Public Participation:

- The scores in this category are generally low across the board, with **Namibia** scoring 0/100, showing an absence of structured opportunities for public engagement in the budget process.
- Even **South Africa**, while performing relatively better with a score of 19/100, indicates that there is substantial room for enhancing public engagement in budget discussions.
- The low scores for **Botswana** (6/100), **Eswatini** (2/100), and **Lesotho** (2/100) suggest a need for these countries to foster mechanisms that encourage and facilitate public input into budget formulation and execution.

Budget Oversight:

- Again, **South Africa** leads with a score of 81/100, pointing to strong oversight by legislative and audit institutions. Such oversight is crucial for monitoring budget execution and ensuring that government spending aligns with approved budgets.

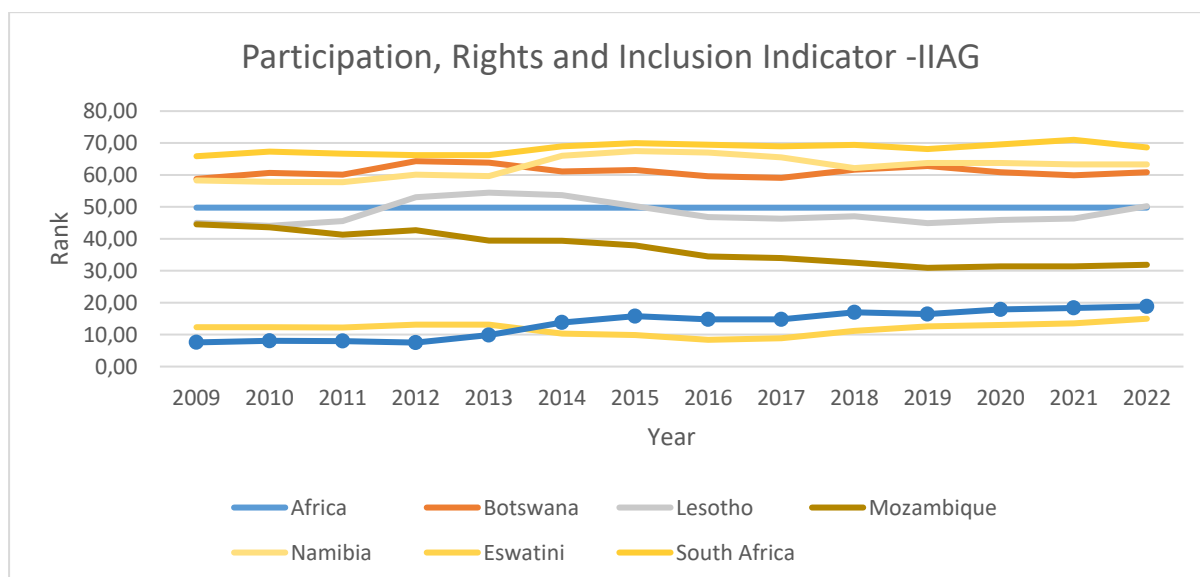
<sup>24</sup> Ibrahim Index of African Governance, available here <https://mo.ibrahim.foundation/iiag>

<sup>25</sup> Ibid, available here <https://iiag.online/measures/pri.html>

<sup>26</sup> Worldwide Governance Indicators, available here <https://www.worldbank.org/en/publication/worldwide-governance-indicators>

- **Botswana** (52/100) and **Namibia** (48/100) present moderate oversight levels, indicating the presence of some checks and balances, though there is a potential for further strengthening.
- **Eswatini** (41/100), **Mozambique** (44/100), and particularly **Lesotho** (20/100) has low scores, highlighting weak oversight mechanisms that could be improved to ensure fiscal discipline and accountability.<sup>27</sup>

### 3.1.2 Public Participation, Rights, and Inclusion



#### Trends from 2012 to 2021:

- **South Africa** shows a significant "Increasing Improvement" in governance with an Average Annual Trend (AAT) of +0.43, indicating noticeable progress over the decade.
- **Botswana** and **Eswatini** also exhibit improvements with AATs of +0.02 and +0.01, respectively, classified as "Increasing Improvement".
- Conversely, **Mozambique** reflects deterioration in governance showing a "Slowing Deterioration" (AAT of -0.43).
- **Namibia** presents a slight decline with an AAT of -0.01, classified under "Increasing Deterioration".

#### Trends from 2017 to 2021:

- **South Africa** continues to show an "Increasing Improvement" with an even higher AAT of +0.53, suggesting accelerated improvements in recent years.
- **Eswatini** and **Botswana** maintain their positive trajectory with AATs of +0.45 and +0.35, respectively.
- **Mozambique's** situation, although still deteriorating, is categorized as "Slowing Deterioration" with an AAT of -0.28, indicating a potential deceleration in governance issues.
- **Namibia** faces "Increasing Deterioration" with AATs of -0.95, respectively, highlighting significant challenges in governance during the latter half of the decade.<sup>28</sup>

<sup>27</sup> Open Budget Survey, <https://internationalbudget.org/open-budget-survey/country-results>

<sup>28</sup> Ibrahim Index of African Governance (IIAG) Data Portal, <https://iiag.online/>

### 3.1.3 Voice and Accountability

Voice and accountability	Botswana	Eswatini	Lesotho	Mozambique	Namibia	South Africa	Africa
2022 score	61	15	50	31	63	69	50

- **Botswana** has been recognized for its stable democracy and good governance in Africa. There is a slight increase in its "Voice and Accountability" scores from its ranking at 58 in 2009 to 60 in 2022. Despite this, Botswana's overall higher scores compared to some of its neighbours indicate a relatively strong performance in ensuring citizens' participation in government selection, freedom of expression, and media freedom.
- **Lesotho** has experienced political volatility, marked by periodic instability and changes in governance. The data reflects a modest improvement in voice and accountability, moving from its rank at 45 in 2009 to 50 in 2022. This improvement suggests efforts towards enhancing democratic governance and civic freedoms, despite the country's challenges with political transitions and stability.
- **Mozambique** shows a decrease in its ranking from 44 in 2009 to 31 in 2019, indicating growing challenges in governance and civic participation. This trend reflects the impact of ongoing political tensions, electoral disputes, and governance issues on the country's democratic practices.
- As one of the world's few remaining absolute monarchies, **Eswatini** consistently scores low in voice and accountability, with a slight improvement from ranking at 12 in 2009 to 14 in 2022. This reflects the inherent challenges of an absolute monarchy in ensuring broad civic participation and freedoms. The scores point to the significant limitations on political pluralism, freedom of expression, and media freedom. Eswatini's case emphasizes the need for dialogue and reforms towards greater political inclusivity and respect for civic freedoms.
- **South Africa** showcases a relatively stable and positive trend, with a ranking of 66 in 2009 slightly decreasing and then improving to 69 in 2022. This reflects the robustness of South Africa's ongoing efforts to address governance challenges. Despite facing issues such as corruption and social inequality, South Africa's improvement in recent years suggests resilience and a commitment to upholding voice and accountability.
- **Namibia's** performance from 2009 to 2022 reflects a commendable trend of democratic governance and civic freedoms. Namibia demonstrated resilience and commitment to democratic principles, evidenced by a steady improvement to be ranked at 59 in 2009 and further to around 62 by 2018 and 63 by 2022. This positive trend underscores Namibia's efforts in strengthening its democratic institutions and enhancing political participation.

### 3.1.4 Summary

This assessment evaluates country performance across various governance and transparency indicators. While some countries show progress, others lag behind, indicating the need for enhanced efforts in governance reforms. In summary:

- **South Africa** is highlighted for its leadership in budget transparency, showcasing strong practices in public financial management and citizen engagement.
- **Botswana** shows stable democratic governance but is indicated to require improvement in public participation and budget transparency.

- **Eswatini** scores low due to its absolute monarchy, reflecting significant limitations on civic freedoms and public participation.
- **Lesotho** is noted for needing improvements in budget transparency and governance practices to enhance public accountability.
- **Mozambique** experiences deteriorations in governance, underlining challenges in transparency and public engagement.

South Africa's leadership in budget transparency contrasts with the lower scores of others, highlighting disparities in public participation and accountability practices. This reveals the importance of civil society's role in promoting governance reforms, advocating for a collaborative approach to enhance transparency and accountability, crucial for democratic governance and sustainable development in the SADC region.

The assessment of the indicators suggests that, by and large, the extent of CSO participation in trade broadly aligns with the national baseline of CSO participation in governance overall. The notable exceptions are the heavy involvement of unions in Eswatini and Lesotho on trade in textiles and clothing, however this reflects the arrangements under AGOA rather than the national situation.

## 3.2 National baseline

### 3.2.1 Botswana

*Umbrella Organizations:* BOCONGO acts as the national umbrella body, supporting over 117 member organizations, while BONASO and BNYC also play significant roles in the NGO community, focusing on AIDS service and youth development, respectively.

*Regulatory Framework:* Detailed laws like the Societies Act and the Companies Act provide a legal basis for CSOs, which are essential for governance, transparency, and accountability. The National NGO Policy and the Policy Guideline for Financial Support of NGOs aim to foster a supportive environment for NGO operations and financial sustainability. However, Botswana lacks laws regarding the access to information, which limits government transparency.<sup>29</sup>

*Challenges:* The reliance on government funding due to limited external donor support poses risks to the autonomy and independence of CSOs. This dynamic may influence the organizations' ability to operate freely and advocate for change.

*Contributions:* CSOs have been pivotal in community development efforts, notably in healthcare (HIV/AIDS prevention and treatment) and education. Their advocacy work has led to increased government accountability and improved policies affecting community welfare.

The publicly available EU Roadmap for Engagement with Civil Society in Botswana is for 2018-2020. There is an updated roadmap underway that reiterates similar objectives and actions for 2021 onwards. This is not yet publicly available. However, drawing on the 2018-20 Roadmap and interviews suggest a

<sup>29</sup> Simelane, M. (2023). Access to information on the spotlight in Botswana High Court - Southern Africa Litigation Centre. [online] Available at: [<https://www.southernafricalitigationcentre.org/2023/05/22/access-to-information-on-the-spotlight-in-botswana-high-court/>] [03/05/2024].

structured approach to supporting civil society's role in national development, emphasizing the need to navigate new challenges and capitalize on opportunities for more effective participation. The roadmap notes new hurdles such as stricter organizational registration requirements and restrictions on media freedom under COVID-19 emergency legislation. A key focus is likely to be transitioning from consultation to meaningful participation in policymaking, particularly in governance and human rights areas. It also emphasizes the integration of gender equality, aligning with the Gender Action Plan III, by enhancing CSO capacities in sectors like green transformation and digital economy. The roadmap addresses the need for improved civil society capacity and advocacy, pointing out the restrictive funding environment's impact on CSO sustainability and independence. It proposes more predictable dialogues between the EU, its member states, and CSOs in diverse thematic areas to strengthen civil society's influence on national policies. Additionally, it stresses regular follow-ups and proactive engagements to ensure the effective implementation of strategies, especially those related to policy and legislative reforms.

### 3.2.2 Eswatini

*Main Trade Unions:* The SFTU and SFL represent significant labour movements within the country, highlighting the importance of worker rights and social justice.

*Regulatory Framework:* NGO activities are co-ordinated through the Ministry of Home Affairs. The Ministry of Justice oversees the registration of NGOs. For full registration, NGOs must register under section 21 as a non-profit company. According to Freedom House (2023) "Eswatini lacks access-to-information laws, and there is no culture of proactive disclosure of government information. Public requests for information are largely ignored in practice, and the budgeting process lacks transparency... Transparency was further reduced by the Public Service Act, passed in 2018, which broadly prevents officials from providing public information to the media unless given express permission by the secretary of the cabinet".<sup>30</sup>

*Challenges:* The lack of access to information laws and declining transparency are major hurdles, affecting CSOs' ability to operate effectively and advocate for public interests.

*Contributions:* Through policy advocacy and legal reform efforts, CSOs have been instrumental in promoting human rights and social reforms. CANGO, as a notable umbrella organization, facilitates collaboration among NGOs to address health, gender, and governance issues.

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<sup>30</sup> <https://freedomhouse.org/country/Eswatini/freedom-world/2023>

**EU Country Roadmap for Engagement with Civil Society in Swaziland/Eswatini (2017-2020)**

The EU Country Roadmap for Engagement with Civil Society in Swaziland (2017-2020) highlights civil society organisations (CSOs) critical role in addressing socio-economic challenges within Swaziland's restrictive political and legislative environment. CSOs, including NGOs, trade unions, and community-based organisations, face obstacles such as a hostile legal framework significantly affected by the 1973 decree that banned political parties and discouraged political activism. Despite these challenges, CSOs are recognised for their potential to influence meaningful change, particularly when collaborating effectively. However, their operation is hindered by financial dependencies on foreign donor funding and a complex registration process under various legislations.

The roadmap outlines critical priorities for strengthening civil society in Swaziland, focusing on building the internal governance, financial management, and technical capacities of CSOs and their ability to access and manage donor funds effectively. Additionally, it seeks to establish operational synergies between EU policy priorities and CSO activities, particularly in agriculture and social protection sectors, aiming to improve service delivery and advocacy efforts.

To achieve these priorities, the roadmap proposes a series of actions, including capacity building through training and the development of monitoring mechanisms, promoting policy dialogue and consultation to facilitate more structured interactions between CSOs, the government, and the EU.

### 3.2.3 Lesotho

*Regulatory Framework:* The legal framework, including the Societies Act and the Companies Act, outlines the operations and governance of CSOs. According to Freedom House (2024), Lesotho lacks laws regarding access to information, and while labour and union rights are constitutionally guaranteed, the government has previously been accused of undermining bodies like the National Advisory Committee on Labour (NACOLA), the Wages Advisory Board, and Industrial Relations Council.<sup>31</sup>

*Challenges:* Financial sustainability and organizational capacity are significant concerns. The response to gender-based violence in the garment industry showcases CSOs' vital role in advocating for workers' rights and safety.

The union movement is weak and highly fragmented, and these challenges have undermined unions' ability to advance the rights of workers—particularly in the country's largest sector of employment, textiles. In July 2021, the labour minister announced plans to review the existing labour code and to establish a bargaining council intended to regulate and oversee employment conditions in the country.

*Contributions:* CSOs in Lesotho actively engage in policy-making and advocacy, focusing on human rights and socio-economic reforms. Their efforts in community development aim to address pressing issues such as poverty and healthcare.

<sup>31</sup> <https://freedomhouse.org/country/lesotho/freedom-world/2023>

**EU Roadmap for Engagement with Civil Society in Lesotho (2021-2023)**

The EU Roadmap for Engagement with Civil Society in Lesotho (2021-2023) emphasises the importance of creating an enabling environment for CSOs, promoting their active participation in policy-making processes, and strengthening their capacity to hold authorities accountable, all within the context of achieving the Sustainable Development Goals (SDGs).

The roadmap highlights recent developments in the EU's engagement with Lesotho's civil society, including support to the Lesotho Council of Non-Governmental Organisations (LCN) and other CSOs through direct grants and Calls for Proposals aimed at addressing various thematic areas such as human rights, rule of law, and entrepreneurship. Despite these efforts, challenges persist, such as an unchanged legal environment, limited capacity among local CSOs, and a lack of reliable funding, which underscore the need for continued EU support and capacity-building initiatives.

In response to these challenges, the EU Roadmap outlines a strategic action plan to increase CSOs' technical and institutional capacities, ensure access to resources, and enhance their participation in domestic policy and development cooperation.

### 3.2.4 Mozambique

*Regulatory Framework:* Mozambique's civil society has experienced significant shifts in its operational environment since the adoption of the democratic constitution in 1990. Initially, the constitution enabled a flourishing space for civil society, allowing citizens and groups to engage freely in public affairs. However, recent trends indicate a contraction of this space, especially in areas that potentially challenge the political establishment. While civil society initiatives aimed at improving education, health, and other social services are still encouraged, activities that involve denouncing human rights violations, corruption, or that challenge political norms face increasing restrictions. This contraction is exacerbated by the state's limited capacity to enforce participatory legislation and its selective approval of civil society themes.

The Constitution supports freedom of association, with the Law on Associations providing guidelines for CSOs. The registration and operation of foreign NGOs are strictly regulated, emphasizing alignment with government agendas and local empowerment. Most nongovernmental organizations (NGOs) operate without significant legal restrictions. However, draft legislation introduced by the government in September 2022 aims to impose a number of new regulations on NGOs, which Civil society groups have criticized as excessive.<sup>32</sup>

A freedom of information law of Mozambique was adopted in 2014 to promote public participation and transparency. However, Freedom House (2023) reports that, in practice, it is not easy to obtain government information.

*Challenges:* Limited resources, bureaucratic hurdles, and the potential impact of legislation aimed at combating money laundering and terrorism financing pose significant threats to CSOs' freedom of association and operation.

<sup>32</sup> <https://freedomhouse.org/country/mozambique/freedom-world/2023>

**Contributions:** CSOs advocate for democracy, transparency, and good governance. Their efforts in social development, human rights advocacy, and community empowerment are vital for Mozambique's progress.

**EU Roadmap for Engagement with Civil Society in Mozambique (2021-2027)**

The EU Roadmap for Engagement with Civil Society in Mozambique (2021-2027) presents a strategy aimed at enhancing the operating environment for CSOs. Highlighting the promotion of human rights, freedom of expression, and increased engagement in environmental and climate action. The roadmap emphasises the need for structured dialogue between the EU, Member States, and CSOs. It advocates for capacity building within civil society to facilitate effective policy advocacy, governance, and accountability, while also prioritizing gender equality and women's empowerment. Addressing the needs of CSOs, the roadmap emphasizes the importance of enhancing social legitimacy through improved representation, governance, transparency, and resource allocation strategies. Furthermore, it identifies opportunities within ongoing decentralization reforms for CSOs to enhance community participation, influence local policies, and collaborate with the media to strengthen advocacy efforts.

In Mozambique, CSOs face challenges that impede their operations and threaten their fundamental freedoms. Limited resources and bureaucratic hurdles, as well as legislation targeting money laundering and terrorism financing, create barriers to their functioning and association. Despite their critical role in addressing sustainability challenges, environmental CSOs struggle to exert influence in policy dialogue and advocacy, particularly due to a lack of technical expertise and uneven representation across regions. Similarly, youth focused CSOs advocacy efforts in modern challenges like digitalization and entrepreneurship are falling short. Meanwhile, governance focused CSOs encounter sustainability issues driven by funding constraints and pressures from local political and interest groups. Lessons from past engagements reveal the importance of adaptive strategies and the need for improved coordination and institutional capacity within CSOs.

### 3.2.5 Namibia

**Regulatory Framework:** The diverse legal forms under which CSOs can register in Namibia, including the NGO Policy Framework and the National Planning Commission Act, provide a structured environment for their operations and contributions to national development. CSOs are allowed to operate without restriction.

Namibia adopted the Access to Information Law in 2022 but in practice accessing some public information can be challenging.<sup>33</sup>

**Challenges:** Financial constraints and the need for capacity building, particularly in governance and financial management, are areas of concern for Namibian CSOs.

**Contributions:** CSOs' involvement in policy-making and advocacy has been crucial in promoting good governance, human rights, and social welfare. Their community development initiatives focus on poverty alleviation, healthcare, and education.

<sup>33</sup> <https://freedomhouse.org/country/namibia/freedom-world/2023>



**EU-Namibia Roadmap for Engagement with Civil Society (2018-2020)**

The EU-Namibia Roadmap for Engagement with Civil Society 2018-2020 identifies challenges and opportunities within the civil society sector, including issues related to financial sustainability, management capabilities, and advocacy effectiveness. It emphasises the crucial role of CSOs in democratic governance, advocating for a structured dialogue between the government, civil society, and international partners to foster a more inclusive and participatory policy-making environment.

The roadmap outlines specific actions and priorities to address noted challenges, such as revising the Civic Organisations Partnership Policy and various capacity-building initiatives.

### 3.2.6 South Africa

*Regulatory Framework:* The legal basis for CSOs, including the Non-profit Organisations Act and the Companies Act, ensures their structured and accountable operation. Access to information rights is secured by the Constitution and the Promotion of Access to Information Act, despite challenges in implementation.

*Challenges:* Securing sustainable funding and maintaining operational independence are critical issues. South African CSOs also work towards building their organizational capacity to enhance their impact.

*Contributions:* CSOs have been influential in shaping public policies, particularly in health, gender-based violence, and children's rights. Their involvement in community development addresses crucial issues such as poverty alleviation and education.

### 3.2.7 Summary

The assessment of the national framework for CSO engagement in governance, looking beyond trade, shows how varied the situations in SADC EPA States is. On the one hand we have South Africa, with a very strong framework for CSO participation and measures to enforce transparency. On the other, Eswatini has increasingly restricted access to information.

Differences in the strength and the depth of Civil Society is also very notable, with South Africa again standing out from the other SADC EPA States.

## 4. Case studies

### 4.1 National Economic, Development and Labour Council (NEDLAC) a gold standard but not replicable

According to its Founding Declaration, “NEDLAC is the vehicle by which Government, labour, business and community organisations seek to cooperate, through problem-solving and negotiation, on economic, labour and development issues and related challenges facing the country.” NEDLAC is a member of UCESA (Union des Conseils Economiques et Sociaux d’Afrique) and is considered an institution similar to an Economic and Social Council.

#### 4.1.1 NEDLAC is mandated by South African law.

NEDLAC was established through the National Economic Development Council Act of 1994. The Act mandates NEDLAC to:

- i) promote the goals of economic growth, participation in economic decision-making and social equity;
- ii) seek to reach a consensus and conclude agreements on matters of social and economic policy;
- iii) consider all proposed labour legislation relating to labour market policy before it is introduced in Parliament;
- iv) consider all significant changes to social and economic policy before it is implemented or introduced in Parliament;
- v) encourage and promote the formulation of coordinated policy on social and economic matters.

#### 4.1.2 NEDLAC is a well-functioning body that successfully fulfils its mandate

NEDLAC is a well-performing body that actively influences South African policies based on input from its constituencies. A recent example of this success is the South African Minister of Trade and Industry drawing on the input from social partners facilitated by NEDLAC to inform South Africa's call for reform of the World Trade Organization (WTO) to address emerging economic and social challenges. Other examples of success include NEDLAC's involvement that directly led to the implementation of the National Minimum Wage, the development of the post-COVID-19 Economic Recovery Plan and the Jobs Summit Framework Agreement.

NEDLAC publishes quarterly performance review reports in which it consistently meets the targets it sets for itself. The strong performance and well-established culture of exchange within NEDLAC was confirmed in interviews.

Specific structures that focus on trade exist

The Council focuses on issues in four key areas, each represented by a chamber. These are the Trade and Industry Chamber, Development Chamber, Labour Market Chamber, and Public Finance and Monetary. Each of these is represented by a chamber with a defined scope.

The Trade and Industry (TAI) Chamber focuses on economic and social dimensions of trade, as well as industrial, mining, agricultural and services policies. Within the Trade and Industry Chamber, a key substructure is the Technical Sectoral Liaison Committee which reviews and aims to enhance existing trade agreements between South Africa and its trade partners. The Committee consists of two task teams which focus on non-agricultural market access and non-tariff barriers, respectively.

The International Trade Commission (ITAC) of South Africa appears to have a stronger focus on trade remedies than NEDLAC, with one of its three core functions being trade remedies investigation. In this light and given that NEDLAC's work in trade focuses on industrial rather than agricultural issues, it was ITAC rather than NEDLAC that conducted the investigation leading to the anti-dumping duties applied on frozen bone-in portions of chicken originating in or imported from Denmark, Spain Ireland, Poland, and Brazil that came into force in August 2023.

However, the Labour Market Chamber did run a programme in 2018/19 to identify measures to address the negative impact of the dumping of dairy and poultry products on employment.

Several ongoing trade-related activities are engaged in, including social clauses

The Trade and Industry Chamber's current trade-related work involves the designation of products, agro-processing and agricultural trade, customs fraud and illegal imports, and strategic sessions with the Minister of Trade and Industry. In 2022/23 the Technical Sectoral Liaison Committee set up a task team to engage on social clauses in international trade agreements. The Committee also reviewed and provided input on international trade agreements including the SACU 2002 Agreement, the SACU-EFTA Implementation, the SADC Trade Protocol, and the SACU Mercosur-PTA Implementation. According to the website, it is also currently involved in trade negotiations on SADC-EAC-COMESA TRIPARTITE FTA, CFTA, and SACU/SA-USA. Furthermore, it held engagements on textile and clothing rules of origin, identifying areas where South Africa might require flexibility in their application.

Social partners are successfully represented in NEDLAC:

The council's members represent South African organised business, organised labour, communities and development interests, and the State. Each of these groups is equally represented in the council. Members of the trade-focused Technical Sectoral Liaison Committee largely represent business, labour and state at the national level. However, the African Centre for Constructive Resolution of Disputes is also represented in the Committee.

NEDLAC has a clear process for considering matters within the Council:

The government is required to submit any legislation or policy that propose significant changes to economic and social policy to NEDLAC for consideration before implementation or tabling in Parliament.

Any constituency may table a matter at NEDLAC by referring it to the Executive Director. The Executive Director then allocates the matter to the appropriate Chamber, Committee or Forum for engagement. A task team, with representatives from the different constituencies, may be established to lead the process on specific issues. Social partners are provided with a reasonable opportunity to prepare and consult on the matter. Once the process of engagement on the policy has been finalised, a report will be prepared by the Secretariat and tabled at the following meeting of the relevant Chamber, Forum or Committee.

#### 4.1.3 NEDLAC's strong performance is in contrast with the lack of similar organisations in other SACU+M countries

While other countries in SACU have organisations, such as chambers of commerce, that represent business and trade union federations and congresses that represent labour as well as councils of NGOs – there are no organisations that bring these different constituencies together with government to consider policy issues and reach consensus.

#### 4.1.4 A measured approach to replicating NEDLAC's role at a regional level should be taken.

While NEDLAC works well at a national level, replicating this at a regional level is complicated and, as interviewees suggested, should not be done in haste. The integration of sustainable development objectives within trade policies and agreements should follow a measured approach or it risks reversal

of progress. Rapid implementation may result in unintended barriers for least-developed countries. Instead, the approach should be ground-up, starting with the practical realities of the least developed countries.

#### 4.1.5 Integrating sustainable development in trade is more likely to be successful within the AfCFTA framework.

Several strong continental bodies that represent civil society, business and labour exist, including the African NGO Council, the African Monitor, the NGO Forum of the African Commission, the Pan African Chamber of Commerce and Industry, the Africa Business Council, the Economic, Social and Culture Council of the African Commission, the Organisation of African Trade Union Unity, and the African Regional Organisation of the International Trade Union Confederation.

#### 4.2 AGOA and beyond- lessons for the EU GSP and possibly the EPA

The African Growth and Opportunities Act (AGOA) of the United States aims to support economic and social development in Sub-Saharan Africa through trade and economic cooperation. It provides trade preferences for quota-free and duty-free entry into the United States for certain goods, enhancing market access to the U.S. for eligible Sub-Saharan African countries.<sup>34</sup> AGOA aims to advance social issues through the trade agreement. It does so through, primarily, its eligibility requirements.

##### 4.2.1 Eligibility requirements

In order to be a beneficiary of the AGOA agreement, countries must meet specific eligibility criteria. Firstly, it must be in the defined region of Sub-Saharan Africa<sup>35</sup>. Secondly, it must meet the following requirements:

- A. **Market-Based Economic Framework:** A market-based economy that protects private property rights, incorporates an open rules-based trading system, and minimizes government interference in the economy.
- B. **Legal and Political Integrity:** Rule of law, political pluralism, and the right to due process
- C. **Trade and Investment Openness:** The elimination of barriers to US trade and investment, including through the protection of intellectual property, resolution of bilateral trade disputes, provision of national treatment to create an environment conducive to domestic and foreign investment.
- D. **Social and Economic Enhancement:** Economic policies to reduce poverty, expand infrastructure, increase the availability of healthcare, promote private enterprise.
- E. **Ethics and Labour Rights:** Systems to combat corruption and bribery, protection on internationally recognized worker rights including right to bargain collectively, minimum age limits for employment of children.
- F. **National Security and Foreign Policy Compliance:** A country must not engage in activities that undermine US national security or foreign policy interests.

<sup>34</sup> AGOA. (n.d.). About AGOA. Available at: <https://agoa.info/about-agoa.html> [Accessed 03/05/2024].

<sup>35</sup> The Contested Eligibility of South Africa for AGOA Benefits, Michael Walsh, 2023. Available [here](#)

**G. Human Rights and Anti-Terrorism:** A country must not engage in gross violations of internationally recognized human rights or provide support for acts of international terrorism.<sup>36</sup>

From the given list of requirements, there are several that seek to directly address social issues, namely, **legal and political integrity, social and economic enhancement, ethics and labour rights, and human rights and anti-terrorism.** AGOA states that in order to qualify as a beneficiary, as well as remain a member, countries need to meet all requirements, and continue to do so while under the trade agreement. US Authorities conduct a yearly review to assess whether countries are continuing to meet these requirements, and further have the right to conduct an out-of-cycle review.<sup>37</sup>

Many African countries are keen to secure or regain membership in the AGOA, as it holds several economic and developmental opportunities. However, eligibility for AGOA is dependent on countries meeting the specific criteria above. The loss of AGOA membership can lead to a decrease in export revenues, a decline in job creation, and a setback in economic development efforts, requiring countries to take the necessary steps to address various issues.<sup>38</sup> Several countries over the past several years have lost their beneficiary status for not meeting the eligibility criteria.

1. Ethiopia: Ethiopia was suspended from AGOA as a result of the civil war in Northern Tigray region that had spurred human rights crisis.<sup>39</sup>
2. Guinea: Guinea was suspended from AGOA following its coup d'état in 2022.<sup>40</sup>
3. Mali: Mali was removed from the agreement as it did not adhere to the requirements of human rights, political pluralism, rule of law, and worker rights.<sup>41</sup>
4. CAR and Uganda: Both countries have said to engage in gross violations of internationally recognized human rights (for example, Anti-homosexuality Act of 2023 in Uganda)<sup>42</sup>
5. Niger and Gabon: Both have not established or not making continual progress towards establishing the protection of political pluralism and the rule of law.<sup>43</sup>

From the above suspensions, as well as additional suspensions that have occurred, the issue of human rights was found to be the most prominent reason for a loss in membership to the Agreement.<sup>44</sup> However, there have been specific instances where countries have fought against their suspension or worked to be reinstated:

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<sup>36</sup> The United States GSP and AGOA, AGOA.info, 2022. Available [here](#)

<sup>37</sup> The Contested Eligibility of South Africa for AGOA Benefits, Michael Walsh, 2023. Available [here](#)

<sup>38</sup> Quantifying the impact of a loss of South Africa's AGOA benefits, Gracelin Baskaran, 2024. Available [here](#)

<sup>39</sup> Africa: US Suspends Ethiopia, Mali & Guinea from AGOA trade deal, Business and Human Rights Resource Centre, 2021. Available: <https://www.business-humanrights.org/en/latest-news/africa-us-suspends-ethiopia-mali-guinea-from-agoa-trade-deal/>

<sup>40</sup> Trade accords with Sub-Saharan African countries can ease supplies of critical minerals, Cullen Hendrix, 2023. Available: <https://www.piie.com/blogs/realtime-economics/trade-accords-sub-saharan-african-countries-can-ease-supplies-critical>

<sup>41</sup> AGOA Country Eligibility, AGOA.info, 2021. Available: <https://agoa.info/images/documents/2451/presidential-proclamation-23-december-2021.pdf>

<sup>42</sup> US to remove Uganda and three other African countries from AGOA trade deal, Gloria Aradi, 2023. Available: <https://www.bbc.com/news/world-africa-67236251>

<sup>43</sup> Ibid.

<sup>44</sup> AGOA Eligible and Non-Eligible list, United States Trade Representative, 2024. Available: <https://ustr.gov/sites/default/files/2024%20List%20of%20AGOAs%20Eligible%20and%20Ineligible%20Countries%201162023.pdf>

1. Eswatini: Eswatini was suspended from AGOA in 2015 due to concerns over its failure to meet eligibility criteria related to worker rights and political freedom. This was determined as government authorities refused to register Amalgamated Trade Union of Swaziland (ATUSWA) and Trade Union Congress of Swaziland (TUCOSWA). Furthermore, the Industrial Relations ACT, The Suppression of Terrorism ACT, and the Public Order Act, had sections which restricted freedoms of assembly, expression and association.<sup>45</sup> However, since its suspension, government have worked on reforms and have registered each trade union, as well as made strides to address these social issues. Eswatini was reinstated into AGOA in 2017.<sup>46</sup>
2. Madagascar: Madagascar was suspended from AGOA in 2009 following a coup that was stated to be a violation of democratic principles. However, the country was reinstated into the Agreement in 2014, as US Authorities had recognised the nations return to democracy and governments commitment to promote transparency and combat corruption.<sup>47</sup>
3. The Gambia: The Gambia was suspended from AGOA in 2015 due to human rights abuses and the deterioration of the rule of law under President Yahya Jammeh's regime. After Jammeh was ejected in 2017 and the country began taking steps to restore democracy and human rights, efforts were made to be reinstated under AGOA. The Gambia was reinstated into AGOA in 2017.<sup>48</sup>
4. Mauritania: In 2018, Mauritania had been suspended from AGOA as it failed to protect workers within the nation. It was stated that the West African nation had made insufficient progress towards combating forced labour, specifically in terms of hereditary slavery. Since its suspension, Mauritania have made progress towards worker rights and have worked with, and supported, labour, civil and human rights organisations within the country. Due to their progress in these areas, Mauritania was reinstated into AGOA in 2024<sup>49</sup>

There is also the example of Lesotho, where concerns of GBVH in textile factories in Lesotho, raised by a U.S. CSO resulted in a binding agreement with the employer establishing an independent complaints mechanism and protecting the rights of workers that use. Pressure to reach a solution came in part from the risk of losing AGOA access.

The demand to re-join AGOA highlights the importance of the programme to African countries. Reinstatement can help revive export sectors, attract foreign investment, and stimulate economic growth. Furthermore, being part of AGOA provides international stakeholders evidence that a country is committed to improving its political and social environment, which can further enhance its attractiveness as a trade and investment market.<sup>50</sup>

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<sup>45</sup> Swaziland: Bring back AGOA status, say unions, IndustriALL, 2017. Available: <https://www.industrial-union.org/swaziland-bring-back-agoa-status-say-unions>

<sup>46</sup> Eswatini: Country Info, AGOA.info, 2024. Available: <https://agoa.info/profiles/Eswatini.html>

<sup>47</sup> Madagascar back in the US trade fold, The New Humanitarian, 2014. Available: <https://www.thenewhumanitarian.org/news/2014/06/27/madagascar-back-us-trade-fold>

<sup>48</sup> Gambia Regains AGOA Status, Omar Bah, 2024. Available: <https://standard.gm/gambia-regains-agoa-status/#:~:text=The%20United%20States%20of%20America,and%20removed%20again%20in%202014>

<sup>49</sup> US to end trade benefits for Mauritania over forced labour, Reuters, 2018. Available: <https://agoa.info/news/article/15532-us-to-end-trade-benefits-for-mauritania-over-forced-labour.html>

<sup>50</sup> The extension of AGOA could help transform African economies, SA Government, 2023. Available: <https://www.gov.za/blog/extension-agoa-could-help-transform-african-economies>

#### 4.2.2 The African Growth and Opportunity Act (AGOA) Forum

The African Growth and Opportunity Act (AGOA) Forum is an institutionalized event that has been held annually since its inception in 2000. It was established by the US Congress as part of the AGOA legislation.

The AGOA Forum is organized by the US government, in collaboration with the host country, which rotates between an AGOA beneficiary country and the United States. The forum serves as a platform for discussions and deeper trade ties between the sub-Saharan Africa and the United States, with the goal of enhancing economic development and cooperation.<sup>51</sup>

The AGOA Forum is organized jointly by the U.S. and the current AGOA-eligible countries. Each year, the responsibility for hosting the forum alternates between the U.S. and one of the AGOA-eligible countries in Africa. The AGOA Forum meets annually. These meetings provide a platform for government leaders, business executives, and other stakeholders to discuss ways to enhance infrastructure, economic governance, and trade capacity in Africa. The AGOA legislation also mandates periodic reviews and can be amended by the U.S. Congress, ensuring that it remains relevant and effective in promoting trade relationships and economic development in the region. The AGOA framework, since its inception, has been instrumental in shaping trade policy, facilitating economic partnerships, and catalysing growth in the region.

*Mechanisms and Operations of the AGOA Forum:* The Forum operates as a multilateral platform, encompassing private sector dialogues, ministerial consultations, and labour group discussions. Its extensive agenda is designed to evaluate the success of AGOA.<sup>1</sup>

The AGOA Forum is marked by the participation of different stakeholders, including government officials, private sector representatives, trade organizations, and labour unions. The diverse representatives promote dialogues on the multifaceted effect of trade relations.

There are specific dialogue platforms for (a) Civil Society Organisations (b) Trade Unions from the US and Eligible African countries.

*The AGOA Forum in South Africa:* The 20th Africa Growth and Opportunity Act (AGOA) Forum was held in Johannesburg, South Africa, from November 2nd to 4th, 2023. It brought together over 5,000 participants, including Ministers of Trade and their senior officials from AGOA-eligible countries, a United States Government delegation led by US Trade Representative, and representatives from the private sector, civil society and trade unions.

#### 4.2.3 Key innovations in US trade agreements

A key innovation to take on board within the US agreements, and one that attracted much attention at the AGOA Forum is the Rapid Response Labour Mechanism

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<sup>51</sup> U.S. Embassy in Côte d'Ivoire. (n.d.). Preparatory visit to the 18th African Growth Opportunity Act (AGOA) forum. Available at: <https://ci.usembassy.gov/preparatory-visit-to-the-18th-african-growth-opportunity-act-agoa-forum/> [Accessed 03/05/2024].

The Rapid Response Labour Mechanism under the US-Mexico-Canada Agreement (USMCA) aims to ensure compliance with labour obligations outlined in the agreement and protect workers' rights across the three countries.<sup>52</sup> It allows for the rapid resolution of labour disputes, particularly those related to violations of labour rights, through a facility-specific process.<sup>53</sup>

The mechanism involves the establishment of rapid response panels that investigate and address labour complaints promptly, focusing on specific facilities or businesses where alleged violations have occurred.<sup>54</sup>

In the AGOA Forum, Labour Unions from Southern Africa noted that the adoption of such a mechanism in AGOA would help reduce the likelihood that entire sectors are punished for one facility's violations. This mechanism is established pursuant to Article 31.5.1 of the agreement and aims to address labour disputes promptly and effectively within the context of the USMCA.<sup>55</sup>

#### 4.2.4 AGOA – EU, GSP and GSP+

As with AGOA, the EU GSP+ mechanism links tariff preferences to the respect for human rights and labour rights, incentivizing compliance with international labour standards in developing countries.<sup>56</sup>

There are a few differences between the labour provisions in both the AGOA and EU GSP+ enforcement mechanism. Of particular note, AGOA enables company level engagement where companies are identified as being, potentially, in violation and encourages government entities, the company or companies concerned, unions and civil society to work together to identify actions which, if implemented, will avoid sanctions.

With regards to the EPA, it is potentially worth noting the role of a “whistleblowing” mechanism that allows for CSOs to raise issues relating to violations of essential elements.

#### 4.2.5 Conclusions

The AGOA, as a unilateral preference scheme is not strictly comparable to the EPA, but rather to EU EBA, GSP and GSP+. There are key differences between the EU GSP (+) and the AGOA.

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<sup>52</sup> Office of one of the United States Trade Department, available here <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2024/february/fact-sheet-usmca-rapid-response-mechanism-delivers-workers>.

<sup>53</sup> European Commission Proposes Update Of Generalized System of Preferences (GSP) , Mayer Brown, 2021, <https://www.mayerbrown.com/en/insights/publications/2021/09/european-commission-proposes-update-of-generalized-system-of-preferences-gsp>

<sup>54</sup> United States Requests First USMCA Labour Panel On A Facility In Mexico, White & Case, available here, <https://www.whitecase.com/insight-alert/united-states-requests-first-usmca-labor-panel-facility-mexico>

<sup>55</sup> Office of one of the United States Trade Department, available here <https://ustr.gov/sites/default/files/files/agreements/FTA/USMCA/Text/31-Dispute-Settlement.pdf>

<sup>56</sup> United States Requests First USMCA Labour Panel on a Facility in Mexico “The status of labour rights in US trade policy”, Atlantic Council, available here: <https://www.atlanticcouncil.org/blogs/econographics/the-status-of-labor-rights-in-us-trade-policy>



Firstly, the AGOA trade preferences are part of, in fact incentivise, a more comprehensive engagement with eligible African Countries. The AGOA Forum covering a wide range of issues and provides a platform for dialogue not just between governments but also the private sector, civil society and trade unions.

Secondly, AGOA enables relevant companies, unions and civil society, and government entities to negotiate solutions that can avoid sanctions being imposed for non-compliance. This process may make it more likely that trade unions and civil society, given their concerns with regards to unemployment, blow the whistle on violations of labour and human rights.

#### 4.3 CSO experience with the development of the SADC EPA Monitoring & Evaluation (M&E) Framework

There have been a number of EU and Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) programmes actively supporting civil society involvement in the implementation of Economic Partnership Agreements (EPAs), including the SADC EPA. This support focuses on enhancing civil society's capacity to advocate effectively and participate in the sustainable implementation and monitoring of EPAs. The current GIZ programme “Supporting sustainability aspects in the implementation of the EU Economic Partnership Agreement”<sup>57</sup> includes:

1. **Capacity Development:** There's an emphasis on training civil society organizations (CSOs) in the SADC region to enhance their advocacy roles. This involves equipping them with the necessary skills and knowledge to monitor the social, ecological, and economic impacts of the EPA and engage constructively with policymakers and regional organizations.
2. **Comprehensive Analysis:** GIZ is conducting comprehensive analyses to understand civil society perspectives on the EPA's impacts. This helps in developing a well-informed civil society that can meaningfully contribute to discussions on the EPA's potential benefits and risks to sustainable development ([GIZ](#)).
3. **Cross-Regional Exchange:** GIZ also supports the development of platforms for supraregional exchange among the regions covered by the EPAs, promoting dialogue and collaboration between civil society actors across different regions ([GIZ](#)).
4. **Project Management and Evaluation Support:** Beyond advocacy, GIZ assists CSOs in organizational aspects such as project management, fundraising, monitoring, and evaluation, aiming to improve their long-term operational capabilities ([GIZ](#)).

The GIZ/BMZ “Comprehensive Analysis of Civil Society’s Perspectives on the SADC EPA” was aimed to develop the capacity of civil society in six SADC EPA countries, focusing on playing a more effective advocacy role in the sustainable implementation and monitoring of the SADC EPA. This initiative included activities like awareness-raising webinars and comprehensive analysis of the perspectives of civil society actors on the impacts of the SADC EPA.

<sup>57</sup> <https://www.giz.de/en/worldwide/92712.html>

#### 4.3.1 Challenges facing engagement in monitoring and evaluation

An important aspect of the work has been Monitoring, in part because it is a area of the EPA agenda where Civil Society has an opening for engagement with decision makers, and also where trust can be built. Between 2017 and 2019, “*The Design of a Monitoring & Evaluation System for the SADC EPA Member States to track the Operationalization and Impact of the SADC-EU EPA*” project worked with Government Authorities and NSAs, including CSOs and the private sector, in identifying the key components of an effective system and the support needed to make it effective. Key challenges related to:

##### a) Information and Reporting Challenges

The challenges concerning information and reporting were the following:

- Lack of awareness of EPA provisions among NSAs such as traders and other private sector players;
- Availability and reliability of data: high levels of informal trade, which are not recorded (private sector stakeholders indicated they often rely on ITC figures);
- Verification: central government institutions acknowledge that information is often ‘sanitised’ by local reporting authorities (i.e. time-release studies by customs officials at border posts). Verification mechanisms are lacking - hence a need for triangulating information by bringing the private sector on board to provide independent trade data;
- Purpose: current trade agreements appear to be monitored for the purpose of compliance, instead of for the purpose of improving usage and impact; and
- Transparency: civil society actors complain about the lack of transparency of government.

##### b) Institutional and Capacity Challenges

Some of the most frequently mentioned institutional and capacity challenges in respect of M&E were the following:

- Lack of capacity both in terms of personnel and skills;
- High personnel turn-over, particularly affects coordination of inputs into joint reporting mechanisms;
- Allocation of responsibilities: roles for data collection or reporting are sometimes not clearly stipulated and allocated to one or more persons, which leads to tasks ‘falling through the cracks’;
- Level of effort: The level of effort involved in the monitoring of specific agreements is not fully considered, which leads to officials being over-burdened;
- Skills for data collection, management, analysis and reporting of data are often lacking;
- Lack of implementation strategies relevant to the SADC-EU EPA;
- Inter-departmental politics and bureaucracy slowing down processes; and
- Cumbersome stakeholder engagement processes due to varying degrees of knowledge as well as varying agendas.

#### 4.3.2 Monitoring indicators

The technical assistance supported a process of the co-development of monitoring indicators, workshopping both NSAs and Government Authorities, resulting in the following:

- Indicators ought to track categories of exports that are likely to grow in the next few years.
- The number of indicators developed for the EPA M&E system should be streamlined and focussed and should not be too many.
- The indicators should be able to track outcomes and impacts, in addition to implementation, and should also be time-bound.
- Introduce an indicator on the tariff quota utilisation rates.
- Baselines should be established across the sectors in order to obtain a comprehensive as is situation prior to the deployment of the M&E System.
- The M&E system should be kept as simple as possible in order to harmonise it with existing country level monitoring frameworks.
- In general, Member States Governments were opposed to the inclusion of indicators related to good governance and sustainable development as they were of the view that these indicators were not related to trade and in any case were already being monitored elsewhere and therefore should not be the part of the M&E framework.

#### 4.3.3 State of play and dynamics

Our consultations explored the experience of CSOs in the development of the monitoring framework and the indicators. SATUCC and SAF-CONGO highlighted that there is still a lot to be done for effective engagement, and that the exclusion of indicators tracking social aspects is a particular frustration.

Discussions confirmed that challenges for successful CSO participation exist at several levels. Among CSOs, the ability to assess whether or not the EPA is of relevance, and if so, what actions to take, is generally lacking – despite efforts to sensitise and raise awareness. This results in either a disinterest, or the adoption of “slogans”. CSO engagement has rarely resulted in concrete and actionable policy recommendations or proposals for technical assistance (beyond further sensitisation). While there are pockets of excellence in the region that can, and - to a limited extent - have been, harnessed to work within networks of CSOs to identify engagement issues and strategies, there is a lack of network coordination and resources to deliver sustainable impact. To build trust with government requires consistency in terms of dialogue partners among CSOs and constructive dialogue.

It was also noted that without a solid foundation of dialogue on trade and sustainable development at SADC, even national level, is a key constraint to effective engagement within the EAP where the European Union is a partner. The message seems to be that there is a need to “get our own house in order” as a priority.

While there is a frustration with the status of engagement on trade issues voiced by CSOs, positive developments were also noted. With SATUCC and SAF-CONGO now playing a stronger role in regional representation on trade issues, including the EPA, there is scope for better coordination and sustained and targeted awareness raising among CSOs. It should also enable stable and consistent dialogue with Government Authorities – which will address some of their frustrations with regards to inviting CSOs

into discussions on trade. SADCs efforts to establish a NSA platform may also result in a more consistent and empowered engagement, though it will take time to establish credibility in the process.

## **5. An examination of the role of the Consultative Committee of the CARIFORUM EPA in monitoring Sustainability chapters and all chapters of the EPA in comparison to the traditional DAGs and the situation in the SADC EPA.**

### 5.1 Scope, roles and responsibilities, institutional structures

The Consultative Committee in the CARIFORUM -EU Economic Partnership Agreement (EPA) and the Domestic Advisory Group (DAG) of the EU-Korea Free Trade Agreement (FTA) are both mechanisms designed to involve civil society in the monitoring and implementation of their respective trade agreements. However, they have distinct roles, compositions, and operational frameworks.

The table below highlights the key differences and similarities between the Consultative Committee of the CARIFORUM -EU EPA and the Domestic Advisory Group of the EU-Korea FTA, focusing on their regulatory basis, scope, roles and responsibilities, and institutional structure and composition.

<b>Regulatory Basis</b>	
Established under the CARIFORUM EU Economic Partnership Agreement to facilitate dialogue and cooperation between civil society organizations and promote dialogue on the EPA's implementation.	Established under the EU Korea Free Trade Agreement to monitor the implementation of the sustainable development chapter, offering a forum for civil society to discuss its implementation.
<b>Scope</b>	
Covers all economic, social, and environmental aspects of the EPA (Article 232), ensuring comprehensive monitoring (Article 5) and dialogue on the agreement's wide-ranging impacts, with specific provision for social (Article 195) and environmental (Article 189) matters.	Specifically focuses on the sustainable development chapter of the FTA, particularly labor and environmental standards.
<b>Role and Responsibilities</b>	
Assists the CARIFORUM -EU Joint Council in promoting dialogue and cooperation among civil society organizations. Monitors the implementation of the EPA's social and environmental aspects.	Provides opinions and recommendations on the implementation of the sustainable development chapter. Serves as a bridge between civil society and the government to ensure commitments are followed.
<b>Institutional Structure and Composition</b>	
Decision No 1/2014 of the Joint CARIFORUM -EU Council identified that the Consultative Committee shall be made up of 40 standing representatives-25 from CARIFORUM and 15 from the European Union –and determined that	Each DAG may vary in size and composition but generally includes a balanced representation of societal interests relevant to trade and sustainable development, including employers'

<p>representatives should be selected from the identified sectors of:</p> <ul style="list-style-type: none"> <li>• Employer’s organizations</li> <li>• Trade unions</li> <li>• Other economic, social actors and non-governmental actors including development and environmental organizations</li> <li>• The academic community</li> </ul>	<p>organizations, trade unions, and environmental groups.</p>
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Sources: CARIFORUM – EU Economic Partnership Agreement, EUCLAC Foundation <sup>58</sup>, Caribbean Policy Development Centre<sup>59</sup>

Differences in scope and composition reflect the different contexts in which the institutions operate. In particular, a priority challenge for the CARIFORUM – EU EPA is implementation and operationalisation of the agreement, with concerns relating to putting the agreement in place and increasing market access, while these foundational issues are not a priority concern in the Korea – EU FTA. Therefore, monitoring of the EPA in the case of the Korea – EU FTA can be much more targeted, both in terms of issues – e.g. observance of ILO conventions in a specific sector.

## 5.2 Achievements

### 5.2.1 The DAG of the EU-Korea FTA

The Domestic Advisory Group (DAG) of the EU-Korea Free Trade Agreement (FTA) has been actively involved in addressing labour standards issues in South Korea. One of the main concerns has been the freedom of association and labour rights in South Korea. <sup>60</sup> In response to these issues, the EU DAG wrote a letter to the European Commission in 2017, urging the use of the FTA to formally address these labour rights violations with the Korean government, arguing that the failure to act would undermine the effectiveness of the Sustainable Development chapters in EU’s trade agreements and the EU trade policy in general. This resulted in the Commission initiating formal discussions with the Korean government, where specific claims were raised, including the non-compliance of Korea's Trade Union and Labour Relations Act with the principles of freedom of association, and insufficient efforts to ratify fundamental International Labour Organization (ILO) conventions.

These issues were brought before a panel of experts, which concluded that violations of core labour standards do not need to be connected to trade to be considered unlawful [2]. The panel recommended that South Korea conform with the principles of freedom of association to include all workers in the definition of 'worker'. This case marked a “significant step” in addressing labour standards through the

<sup>58</sup> [https://eulacfoundation.org/system/files/digital\\_library/2023-07/The%20EU-CARIFORUM%20EPA%20Regulatory%20and%20Policy%20Changes%20and%20Lessons%20for%20Other%20ACP%20Countries.pdf](https://eulacfoundation.org/system/files/digital_library/2023-07/The%20EU-CARIFORUM%20EPA%20Regulatory%20and%20Policy%20Changes%20and%20Lessons%20for%20Other%20ACP%20Countries.pdf)

<sup>59</sup> [https://cpdcngo.org/cpdc\\_projects/CARIFORUM-economic-partnership-agreement-consultative-committee/](https://cpdcngo.org/cpdc_projects/CARIFORUM-economic-partnership-agreement-consultative-committee/)

<sup>60</sup> <https://www.epsu.org/article/workers-rights-agenda-eu-korea-domestic-advisory-group>

mechanisms established by the EU-Korea FTA and highlighted the role of the DAG in advocating for improved labour conditions.<sup>61</sup>

### 5.2.2 The CARIFORUM -EU Consultative Committee

The achievements of the CARIFORUM -EU Consultative Committee have been centred around enhancing civil society engagement, providing a platform for inclusive dialogue, and contributing to capacity building and advocacy efforts related to the EPA's implementation. More specifically, the work of the Committee has been credited with:<sup>62 63</sup>

1. **Strengthened Civil Society Engagement:** The Committee has significantly contributed to enhancing the capacity of CARIFORUM civil society organizations to engage in policy dialogue and advocacy.
2. **Enhanced Framework for Participation:** By providing a platform for dialogue, the Committee has improved the framework for civil society participation in the EPA's implementation and monitoring processes.
3. **Advocacy and Advisory Capacity:** Although the Committee does not make decisions, it serves an important advocacy and advisory role, allowing civil society to contribute their perspectives and recommendations on the EPA process.
4. **Promotion of Social Dialogue:** The Committee has facilitated social dialogue, including consultations on labour legislation and training programs aimed at enhancing skills development to match labour market requirements. This has contributed to the promotion of decent work and adherence to international labour standards as outlined in the EPA.

The Consultative Committee has also been successful in cooperation and coordination between EU and CARIFORUM Non-State Actors (NSAs). There have been seven Joint Committees held, each resulting in a common position. The Committee has also agreed a Joint Work Programme.<sup>64</sup> Within this work programme is the monitoring and advocacy on some decent-work related issues including, for example, encouraging more dialogue on occupational health and safety, facilitating social dialogue and monitoring the impact of the EPA on the informal sector and job security. However according to the ex-post evaluation of the EPA, this has not led to concrete outcomes yet, and the lack of monitoring on impacts in this area has also limited the interaction with the TDC. The study also points out that, based on interviews, the core labour standards are not considered to be the most pressing problems in the region, also given that most core labour conventions had been ratified before the EPA.<sup>65</sup>

Through programs like the EU Support to facilitate participation of CARIFORUM Civil Society, the Committee has indirectly contributed to enhancing the technical and organizational capacity of regional organizations of employers and workers. This includes participation in harmonization of labour laws, promotion of sustainable enterprises, and engagement in social dialogue processes related to the EPA.<sup>66</sup>

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<sup>61</sup> [https://www.europarl.europa.eu/RegData/etudes/BRIE/2022/698800/EPRS\\_BRI%282022%29698800\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2022/698800/EPRS_BRI%282022%29698800_EN.pdf)

<sup>62</sup> [https://cpdcngo.org/cpdc\\_projects/CARIFORUM-economic-partnership-agreement-consultative-committee/](https://cpdcngo.org/cpdc_projects/CARIFORUM-economic-partnership-agreement-consultative-committee/)

<sup>63</sup> <https://www.ilo.org/projects-and-partnerships/projects/eu-support-facilitate-participation-CARIFORUM-civil-society-regional>

<sup>64</sup> <https://www.eesc.europa.eu/en/documents/draft-work-plan-joint-CARIFORUM-eu-consultative-committee>

<sup>65</sup> <https://www.fta-evaluation.eu/en/>

<sup>66</sup> <https://www.fta-evaluation.eu/en/>

The Committee has been supported by a regional think tank, the Caribbean Policy Development Centre (CPDC), which is currently the Secretariat and has served as the Chair on two occasions.<sup>67</sup>

### 5.3 Challenges facing the Consultative Committee

At its 6<sup>th</sup> meeting, the Consultative Committee set out several of the challenges faced in delivering on their mandate:

*“The CC repeats its call for it to be given permanent observer status at the Trade and Development Committee (T&DC) in order to facilitate access to relevant documents and to enable the CC to make timely and relevant contributions to the Joint Council.*

*The CC wishes to help create a bridge between civil society organisations in Europe and in the CARIFORUM region in order to bridge the information gap. The primary mechanism to achieve this objective is through the adoption of open government principles specifically focused on data analytics, with a view to providing effective monitoring and evaluation tools. We believe this will create more impactful partnerships linking up, inter alia, employers, farmers, fisherfolk, capital, consumers, women, youth, indigenous people, small and medium enterprises and trade unions. 5. The CC states that, in order to fulfil its role as an advocate, it will regularly set out its views on topics relevant to the EPA and its operation. Disseminating these to the relevant stakeholders will raise visibility, awareness and understanding of the EPA. The CC therefore wishes to access the necessary financial and technical resources, including the existing communications infrastructure, as well as all relevant information from all associated working groups and task forces. The consultative committee agrees that, as stated in Rule 4(2) of the CC Rules of Procedure, additional meetings of the CC or of smaller working groups could be held by electronic means and that the CC will discuss further how to set up these smaller working groups. 6. In order to fulfil its role in monitoring the implementation of all economic, social and environmental aspects of the EPA, the CC encourages the introduction of a proper monitoring mechanism by the EU and by the CARIFORUM Directorate with serious involvement of the CC. The possibility of initiating a complaint procedure by the CC, if economic, social and/or environmental obligations of the EPA are not met, could be an appropriate instrument in this context. The CC would greatly appreciate receiving information on the implementation of the recommendations set out in this joint statement.”<sup>68</sup>*

In sum, the CC points to the factors that are required to increase transparency and accountability, which include: permanent representation at the decision-making level, a monitoring mechanism - which will often involve significant information gathering that is not currently taking place, effective outreach, capacity building to empower stakeholders to engage effectively, and a complaints procedure for violations of the commitments of the EPA. The comments also pointed to a need for a flexible structure within the CC to allow for more detailed assessment of specific issues within working groups. And resources.

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<sup>67</sup> <https://cpdcngo.org/>

<sup>68</sup> <https://www.eesc.europa.eu/en/documents/joint-statement-cariforum-eu-consultative-committee-6th-meeting-4-may-2022>

But there is a sense that first and foremost the need for feedback from the T&DC on the proposals put forward by the CC. Consultation with the Committee underscored this frustration. The Committee is effective in developing joint positions, but this can be ignored within the decision-making processes.

Despite a considerable effort on developing indicators for monitoring,<sup>69</sup> the five year reviews and the ex post evaluations (notwithstanding concerns<sup>70</sup>), consultations also pointed to the need for a strong monitoring mechanism that would enable the CC and other stakeholders to immediately assess if the EPA is being implemented and operationalised correctly and delivering the results – in terms of market and sustainable trade and development.

#### 5.4 The regional-national dimension

While the CC works effectively as a region-to-region dialogue platform, able to bring together CARIFORUM and EU regional stakeholders, consultations indicated a lack of a formal, or effective link, to the national level. Where there is one between the CC and Member States, it is because of the individuals involved where a representative on the CC is also involved in key national organisations.

This lack of regional – national linkages could play a significant role in the challenges of implementation and impact of the EPA. While dialogue is at the regional level, action and resources are at the national level – creating a disconnect.

#### 5.5 Reflections

Providing a dialogue and coordination platform for regional NSAs, including CSOs, within an institutionalised framework has resulted in joint positions, and a joint work programme, of direct relevance to sustainable development including a nascent draft workplan on decent work. This work has been facilitated by the CPDC, a think tank, which has played the role of a Secretariat and also engaged in awareness raising and capacity building on labour issues in the context of the EPA.

There have been significant efforts to create a monitoring framework, beyond the reviews and evaluations, to try to empower stakeholders to hold decision makers to account for EPA implementation and ensure the agreement results in its stated aims.

However, and despite the institutionalised framework to support NSA involvement in the EPA, little concrete has been achieved as a result.

Key issues raised include:

- The need for a monitoring mechanism with appropriate indicators (restricted in number), accompanied by sufficient data collection processes, to enhance interaction with the TDC. The challenge of data availability was a particular concern.
- A requirement for feedback from the TDC on joint positions and proposals

<sup>69</sup> <https://op.europa.eu/en/publication-detail/-/publication/eeddbf98-9988-11e5-b3b7-01aa75ed71a1/language-en/format-PDF/source-search>

<sup>70</sup> <https://caricom.org/statement-of-the-council-of-ministers-of-CARIFORUM-on-the-ex-post-evaluation-of-the-CARIFORUM-eu-epa/>



- A more flexible structure for the CC to allow working groups to address specific issues in sufficient details.
- The very broad agenda of the CC can be contrasted with the focus of the DAG on sustainable development issues only. However, the priority of market access constraints for the Caribbean and the challenge of implementation means that restricting the agenda of the CC to social and environmental issues would be ill advised.
- Direct and institutionalised linkages between the regional and national EPA agenda and stakeholders needs to be established if implementation is to be affected.

## **6. Conclusions and recommendations**

The lack of progress in enabling the participation of CSOs, including trade unions, within the institutional framework of the SADC - EU EPA since commitments were made to do so in 2017 and again in 2019, is the result of several factors.

Firstly, there appears to be a “trust deficit” compounded with a lack of experience and/or lack of confidence in the operationalisation of trade agreements amongst SADC EPA States. This makes them wary of going beyond what is already in the EPA until they are sure that they are “not giving anything away” that they are currently not aware of. The concerns are that the inclusion of CSOs, including trade unions, is a step towards trying to impose EU social and environmental standards through the EPA – standards that they cannot meet, and which will then result in further NTBs. The position of several, though not all, States is that the EPA should be purely about trade, with the ILO, COP etc. addressing other issues.

Secondly, SADC EPA States have different priorities relating directly to market access, including standards and rules of origin compliance. The message appears to be to let the EPA deliver on its market access promise before anything else is added to the agenda. It is also noteworthy that the interest of CSO in the EPA is somewhat waning, with other matters, such as the implications of EU environmental and social standards agenda, becoming more of a concern.

Thirdly, for several SADC EPA States there is also a “trust deficit” of Government in their own Civil Society Organisations and the ability of these organisations to participate in trade policy dialogue. The national level assessment suggests that for most States there is very little participation of CSO in trade dialogue within the country, and this often extends to limitations to participation in governance more broadly – it is therefore not surprising that there is a reluctance for CSO participation in their trade relationships with the EU.

The very slow progress made in the one area that CSOs are to be involved in the EPA, with regards to Monitoring and Evaluation contrasts with CARIFORUM. While CARIFORUM see a strong M&E framework as an important tool for holding the EU to account for the commitments made – particularly at the outcome level – the SADC EPA States fear it will be used to put pressure on them to adopt inappropriate EU social and environmental standards.

As things currently stands there is some, but limited, encouragement to be found in other regional frameworks for dialogue that include, or aim to, CSOs. While SADC is developing a forum for Non-State Actor involvement, the focus seems to be eligibility criteria for NSAs to be “allowed in” rather than their role and responsibility and how to build their capacity to engage. With regards to labour issues, SATUCC notes that their involvement is strictly limited to engagement with the Committee of Ministers of Labour at SADC and does not extend to trade issues. The ILO also notes the limitations of regional engagement at the SADC level. However, there is an agenda for greater participation of NSAs within SADC that may offer scope to build a more solid for CSO engagement on trade and sustainable development that would be mutually supportive of engagement within the EPA.

The study suggests that the challenge for effective dialogue does not solely lie with Governments. Even if the doors were to be opened, outside of South Africa, the limited capacity of CSOs to understand their interests in trade agreements and articulate a positive agenda for engagement has been highlighted again and again. It is a matter of concern that capacity building with CSOs has yielded, at best, mixed results. An obvious challenge to the above narrative is the success of the AGOA in ensuring CSO, including trade union, participation in the AGOA forum. The key difference between the AGOA and the EPA is that the AGOA has an appropriate mechanism enshrined within the agreement – crucially a mechanism that did not have to be negotiated with SADC EPA States because the AGOA is a unilateral instrument.

Given the above it is therefore unlikely that much progress will be made in the short term with increased participation of CSOs in the institutional framework of the EPA at regional level.

How then to define our positive agenda? The study does suggest some building blocks.

Firstly, continued support to CSO engagement in the monitoring process is an immediate priority and likely to get some traction. SADC EPA States have made progress, however slowly, and commentators on CARIFORUM’s experience point to downsides of the absence of an indicator driven monitoring mechanism – limiting the scope to hold decision makers to account. CARIFORUM’s experience also pointed to the challenge of information availability and gathering. However, the scope for institutionalised involvement at the regional level is likely to be restricted to internal processes within the SADC EPA States rather than extend to inter regional engagement.

Secondly, there is strong interest amongst CSOs, possibly more accurately deep concern, over the EU’s unilateral measures such as CBAM, the deforestation regulations and child labour, and how they might impact market access and employment in SADC EPA States. There is clearly an appetite for dialogue on the direction and consequence of EU’s policy towards sustainability that is shared across all States. The comprehensive approach of the AGOA Forum, which embraces a dialogue beyond trade to broader strategic interests (to some extent similar to the EU – AU dialogue and business Forum) as well as including investment and business matchmaking events, also offers some insights as to what may increase the appetite for broad based dialogue. The time for this dialogue to start is now.

Thirdly, and in similar vein, the approach to technical assistance and capacity building in Eswatini and Lesotho - that (a) places the EPA within a broader context of competitiveness (b) and also actively embraces CSO involvement in project management - is likely to enhance national level dialogue on trade and related issues in the EPA. The advantage of this approach is that the EPA is somewhat

depoliticised and can be judged on its contribution to national development rather than being seen purely as an EU agenda.

Fourth, and very much like a song stuck on repeat, the importance of capacity development and co-ordination for effective engagement of CSOs on trade issues is fundamental to any efforts to increase participation.

Fifth, enhanced institutional dialogue on trade and sustainable development within the SADC Framework could have significant spill overs for the EPA process by building trust and capacity within the region – before turning to third parties.

We propose that, at the regional level, a comprehensive approach to engaging with SADC EPA States that includes, but is not restricted to, the EPA and helps to build trust on the EU initiatives on the environment and social/ labour matters. It is important to build trust. Within such an EPA+ environment there would be the scope to provide similar dialogue platforms for civil society and trade unions to the AGOA Forum. If the SADC EPA States do not agree to such an EPA+ Forum, it would fall to the EU to arrange a parallel process to the EPA dialogue. We note that to a large extent we are proposing a similar approach to that followed in the EPA outreach programme. However, the focus of this engagement would not be the EPA, but rather a trust building exercise in the EUs intentions regarding trade, including sustainability.

Support to the SADC NSA programme and continuing to strengthen regional and national linkages on trade and sustainable development would also help to build a more credible and consistent dialogue that would help create a stronger basis for dialogue with the EU on what are sensitive issues for SADC EPA Member States.

At national level, there is scope for a greater focus on CSO participation in development programmes, in particular in light of the ex-post evaluation and the ongoing review of the EPA. An explicit and institutionalised role for CSO in project management would contribute to national trust building. In Mozambique, the Promove Comercio programme provides a vehicle, though there is an obvious challenge in extensive CSO engagement in forums such as the National Working Group on Trade Facilitation which is often customs focused and where discussion is often highly technical in nature – the modalities of operation will need to be worked out. In Eswatini and Lesotho it would seem reasonable to ensure that CSO involvement in EU programmes is a right rather than a privilege. In Namibia, the focus should probably be capacity building support to engagement in the National Trade Forum, taking into account the history of what some commentators described as less than positive dialogues in the past. With regards to Botswana, the concerns over introducing sustainability issues into trade relations needs to be recognised and navigated. With regards to South Africa, we note the relatively robust and institutionalised framework for CSO participation in trade negotiations and governance.

In the final analysis, whatever the experience to date of capacity building of CSOs to better engage in dialogue and governance, there is no getting around the fact that capacity needs to be built. What needs to be done differently to make it more effective is outside the scope of this report.

Going beyond the EPA to the EU's GSP and GSP+, the more targeted and comprehensive process of engagement on potential violations of labour and human rights, that can involve specific negotiations at e.g. company level between management and unions – is a point of reflection.

## **Annex 1: Stakeholder List**

The following stakeholders were consulted as part of this study.

<b>Stakeholders Consulted for study on CSO engagement in the EPA</b>	
<b>#</b>	<b>Organisation</b>
1.	EUD Lesotho
2.	EUD Eswatini
3.	EUD South Africa
4.	Ex- Post Evaluation of the EU-SADC EPA- Consultant- reference from EUD SA
5.	EUD Botswana
6.	Directorate-General for Trade
7.	ITC Eswatini
8.	SADC EPA Unit
9.	EUD Mozambique
10.	SATUCC
11.	EUD Namibia
12.	CANGO
13.	BMU
14.	SAf-CNGO
15.	COSATU (NEDLAC)
16.	DTIC South Africa (NEDLAC)
17.	Agricultural Chamber of South Africa (NEDLAC)
18.	GIZ- NEW
19.	SA - EU Dialogue Facility
20.	DNA Economics
21.	ILO Pretoria
22.	JOINT
23.	TUCOSWA
24.	ATUSWA
25.	EU-CARIFORUM Consultative Committee

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