

Comparing the ACP and EU Negotiating Mandates

On 30 September 1998, the European Union (EU) and the African, Caribbean and Pacific (ACP) group of states began talks on a successor Lomé Convention. This brief compares the negotiating mandates of the two groups.

Comparing the two mandates is rather tricky. Behind the apparent consensus, there are many divergent positions or varying interpretations, often phrased in diplomatic language. Much “reading between the lines” is required to grasp the underlying messages and implications. One should not forget that the mandates are built upon compromises between member states, both in the EU and in the ACP.

Principles and Objectives

At first sight, the EU and ACP agree on the principles and objectives of future cooperation. Both parties want to build a *strengthened partnership*, secured through deeper political dialogue. This partnership should be geared towards poverty reduction, sustainable development and further integration of the ACP into the international economy. Both mandates recognise the need for “differentiation” between ACP countries (e.g. by providing special treatment to least-developed countries and vulnerable land-locked and island countries).

However, there is a major split with regard to the political basis of the partnership. For the ACP group, *development* should be the primary objective of partnership; it is an objective in its own right, a fundamental human right, not to be subordinated to political objectives or other agendas. Political dialogue should reflect this and be unconditional.

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The EU seeks a political environment that guarantees peace, security and stability, respect for human rights, democratic principles, the rule of law and good governance. This is seen as a *prerequisite for development*. The same applies to “sound and sustainable economic policies”. The preamble of a future agreement should therefore refer to many basic texts, acts and pledges made in recent UN Conferences. The EU sees an explicit linkage between development and broader political and economic agendas.

Political and Institutional Aspects

Both mandates agree that building a strengthened partnership will require a fresh look at current provisions. For the ACP, a “true partnership cannot be characterised by conditionalities”. Political dialogue should not take the form of “political dictation or be tinged with any notion of conditionality”. The EU is much less explicit. It wants future partnership to be based on “dialogue, contract rather than conditionality and the fulfilment of mutual obligations”. In practice, the dividing line between “conditionalities” and “mutual obligations” may prove to be rather thin. For instance, the EU mandate is much more specific on ACP obligations than on its own commitments.

Essential Elements

The ACP group declares itself committed to democracy, rule of law, respect for human rights and good governance *as set out in the existing Convention*. The EU wants to go further and include a good governance clause as a new essential element. The EU mandate spells out in detail what “good governance” means. Beyond the transparent and accountable management of resources, it also encompasses “effective action to prevent and combat bribery and corruption”. The ACP mandate is silent on these issues. This could mean that it rejects the EU proposal or that it is a divisive issue, internally. It could also be that inclusion of governance in article 5 is only acceptable to the ACP if preliminary agreement can be reached on definitions.

In this respect, the ACP recall “that no measurable standards have yet been developed for the current provisions” and that it would be “beneficial to lay down criteria and procedures for the joint determination of infringement of the agreed principles”. The ACP stress that “no unilateral withdrawal of development assistance will be accepted”, thus criticising the dominant practice since 1995. This is likely to be a tricky issue in the negotiation. The ACP are unhappy with the current use of the suspension clause and would prefer jointly measurable standards. However, levels of democratic development and governance vary considerably among ACP countries. This may make it difficult for the ACP group to come up with a shared and credible set of criteria, indicators and monitoring procedures to determine infringement.

Political Dialogue

How can a broader, deeper and more effective political dialogue be promoted? Both mandates tackle this question from two angles: the *content* of political dialogue and its *format*.

With regard to content, there are many concerns that both parties seem to share (e.g. dialogue on conflict prevention, post-conflict reconstruction, sustainable development, etc). In practice the ACP fear that the agenda for dialogue might focus too much on EU priorities (e.g. respect for human rights, democracy, drugs and organised crime, gender).

To prevent this, the ACP mandate proposes that certain themes of interest to the ACP Group be included. Thus, the ACP claim a reciprocal right to dialogue on “EU third country relations which adversely affect the interests of the ACP Group” or “activities originating in the EU which affect the stability of ACP countries or regions” (e.g. arms trade, extra-economic activities of transnational companies, nuclear testing, etc.).

Migration is a new and potentially divisive topic. The EU limits the scope of dialogue to issues of poverty, jobs, human rights and armed conflict, as well as voluntary return and ways of discouraging illegal immigration. The ACP want to discuss the treatment of ACP immigrants in the EU in the context of the Schengen agreement. It is doubtful whether the EU is willing to address such issues under the rubric “political dialogue”.

With regard to format, both parties agree that there should be political dialogue at the global, regional, sub-regional and national level. The EU pleads for flexible procedures and modalities, to be agreed according to efficiency criteria.

The ACP go further than the EU in their criticism of the joint institutions (formalism, non-resolution of problems, low and inappropriate level of attendance, particularly from the EU). Institutionally, both mandates favour reinforced dialogue at ministerial level (including the troika responsible for ACP-EU cooperation and foreign affairs), as well as in the Joint Assembly and Committee of Ambassadors. The question is whether the EU will be able to manage such high level dialogue at the global and sub-regional levels. While an Africa-Europe summit is foreseen in 2000, separate meetings between the EU and the Caribbean and Pacific are less likely.

The Actors of Partnership

This is likely to be another political battlefield. In various parts of the ACP mandate, openings are made for greater participation by non-state actors (civil society and private sector) in future ACP-EU cooperation. Yet the nature and modalities of this participation remain rather vague. For the EU, extending partnership to a wide range of actors seems to be a political priority. A “participatory partnership” is seen as a fundamental principle of future cooperation. The mandate dedicates an entire chapter to the “actors of partnership”. While recognising the primary role of national authorities in defining strategies and programmes for development, the EU wants to involve a wide range of actors in “dialogue [...] on the policies and priorities of cooperation (especially in areas directly concerning them) and [...] in implementing cooperation projects and programmes”. The mandate also stresses the need for “increasing decentralised cooperation”.

Geographical Coverage

The ACP mandate clearly stresses the *internal solidarity* of the Group. It favours an enlargement of the Group by accepting Overseas Countries and Territories that would gain independence, Cuba, and independent Pacific states if they have the support of existing members in the region. Should this happen, the general perception that ACP countries are a continuation of former colonial links to EU countries would be broken. The EU is less clear on this point, simply stating that the Convention “will set out the criteria and mechanisms for accession, based on the current provisions.”

Trade

Since the first versions of their mandate, the ACP have switched from an essentially “status quo” position to a more “reactive” one. The successive drafts of the ACP mandate tended to become more lenient towards the principle of FTAs, while putting emphasis on the necessity to soften their impact in all possible ways.

The inclusion of services, pushed for by the Caribbean, for whom it matters most, is however new. It is a bit surprising that the trade proposals do not include more explicit calls for financial compensation packages, should ACP reciprocity be adopted.

Consensus Points

There are three main points where both sides agree. First, to preserve a *comprehensive aid and trade agreement*, covering an increasing number of areas.

Second, both agree on the need for *flexibility with the WTO*, should reciprocity be introduced. This means longer transition periods and exclusion of more sensitive products than a strict interpretation of WTO rules would allow under article XXIV. Not only did the ACP mandate grow to reflect (reactively) European positions, but similarly, successive versions of the EC mandate attempted to respond to fears expressed by the ACP. Hence their increasingly explicit reassurance that eventual FTAs could be *softened*, compared to strictly WTO-compatible ones.

Third, both agree on the need to retain a *specific ACP-EU trade link*, as opposed to a “normalisation” of European trade policies towards developing countries (the GSP and “MFN” options). For the EU, which presents these stronger trade ties as the driving force towards some form of economic and political *integration*, foreign policy rather than just commercial or developmental objectives is the underlying reason for this privileged link. The ACP want to reinforce the link because they still see it as the only alternative to an MFN approach they fear would leave them worse off. They are concerned that the WTO is not the best place to defend their trade interests, because in their view it is biased against smaller and weaker countries. They need the anchor of their traditional development partners.

Differences with the EU mandate

The ACP presents three main proposals.

- *Take more time before making changes.* The ACP asks for a ten-year rather than five-year extension

of the current waiver. The ACP - countries or regions - do not consider themselves ready for FTAs, and will not be ready by the time the EU wants them to, i.e. from 2005 onwards. The EU seems willing to be flexible, but the ACP intend not to commit themselves to anything too quickly. The agreement on trade should be left for September 2006, while the EU wants the ACP to agree on the principles by February 2000.

- *Retain as much as possible of the current arrangement.* The ACP want to maintain and enhance the protocols, while the EU is far from clear what will happen. Both agree that the sugar protocol has a special status. The EU hints it might be revised during the Lomé renegotiations, the ACP explicitly oppose this. From the ACP viewpoint, commodity mechanisms need to be preserved and improved. The ACP agree to some extent that they have not worked in the past, not because they were inadequate as instruments, but because they were not properly managed. The ACP argue that Lomé preferences should be kept for LDCs, as the EU proposes, but also for “highly vulnerable countries”, and special and differential treatment should be given to “small economies”. This is also reflected in general considerations for “positive differentiation” (for the small, the vulnerable, the landlocked, the commodity-dependent).
- *A fairer deal.* The issue of CAP-subsidised EU agricultural goods remains a concern for the ACP. The EU does not mention it. Regarding ACP calls for simplification and relaxation of the rules of origin, the EU (which only included improvement of rules of origin in its mandate in the last minute) remains very vague. The ACP call for existing access for agricultural goods to be improved, whereas the EU makes no firm proposal.

Areas and Priorities for Cooperation

There seems to be a broad consensus on the *areas and priorities* of development cooperation. Both mandates contain a rather detailed list of objectives, focal areas and development concerns. These are generally in line with current development thinking and the conclusions of major UN Conferences. They centre around the key objective of poverty eradication and are translated in more concrete objectives with regard to economic development (e.g. support for private sector, infrastructure, competitiveness, technological innovation, employment), regional cooperation and integration, social development, human and institutional capacity building, reform and modernisation of the

State, sustainable development and natural resource management, youth and gender issues, culture, etc.

At first sight, not much controversy is likely to arise with regard to these listings. Rather, there will be a discussion on how a long and detailed description of objectives can be reconciled with the perceived need for a much shorter and leaner cooperation agreement.

Divergent positions can be expected in the choice of implementation strategies to achieve common objectives. For instance, the ACP agree with the EU on the need to reform the State and its institutions. However, compared to the EU mandate, there is less focus on human rights, the fight against corruption and support for the rule of law. Both negotiating mandates also recognise the central role of the private sector as an engine of growth, employment and wealth. The ACP mandate calls for new forms of “dialogue between public and private sectors at national level” and for “more direct and easier access to financial resources”. It remains, however, vague on the operational modalities to make this a reality. The EU requires “the development of social dialogue with all the actors representing civil society, and specifically between employers and labour”. No reference is made in the ACP mandate to this type of sensitive issue.

It is also interesting to note that the ACP call for writing off debt from previous Conventions, as well as a commitment by the EU to promote and support urgent debt relief measures in other fora. This does not appear in the EU mandate. The ACP also urge that monetary arrangements for protection of instability in financial markets be developed and call for enhanced ACP-EU monetary cooperation, especially for currencies pegged to the Euro.

Instruments and Management of Financial Cooperation

This is likely to be a rather complicated and polarised topic during the negotiations. The EU mandate is quite ambitious. It wants to see major changes in cooperation practices in order to promote ownership and a more effective and viable use of resources. *Differentiation* among ACP states is a key notion. There is also a clear desire to reward development performance. Thus, future (5-year) resource allocations will be calculated in the light of the country’s estimated *needs* (i.e. size, population, income, structural and geographical vulnerability and whether the country is an LDC) and an objective and transparent estimate of *performance*.

Generally, the ACP seem more “conservative” than the EU. The principles that the ACP promote are:

- *Local ownership of reforms*. This is also promoted by the EU. The financial consequences (less funding) of the absence of reforms are not drawn by the ACP. This may enter into conflict with the “security” of resources. The ACP commit themselves to *effective reforms for stable financial environment*, but do not make it a contractual obligation.
- *Predictability and security of resources*. This is likely to contradict EU views on performance criteria as the basis for aid allocation, and phased programming. In the eyes of the ACP, the flow of resources should not be constrained. The ACP urge the EU to *allocate 0.7% of GDP to ODA*, especially to the ACP, to subscribe to the aim of *reducing poverty by 50% in 2015* and to abide by the *Copenhagen 20-20 compact*.
- *Partnership with more explicit allocation of responsibilities*. This is also an EU principle. However, neither party is explicit on the respective responsibilities.
- *Simplification and rationalisation of instruments*. The EU goes much further by proposing to reduce the number of instruments.
- *Flexibility in programming*. The ACP are not specific on this: Is *flexible programming* the same as *rolling programming*? Such amalgamation can be done easily. However, a more detailed reading of the ACP mandate would point at an easier revision of the projects and programmes rather than a full revision process which could imply fewer resources for certain NIPs.

The ACP propose to keep STABEX and SYSMIN. The gap with the EU position is very wide on STABEX. The ACP want to go ahead and “improve” the instrument in the sense of less constraints, more funding, and simpler procedures. Unlike the EU, there is no fundamental questioning, nor a suggestion that it be used for structural adjustment reforms.

Both sides see an extended role for a renamed Centre for the Development of Enterprise (CDE), currently the CDI. This would imply extending its activities to the area of services and integrating CDE more in strategies for private sector development. The role of CTA should be reinforced.

On modes of financial and technical cooperation, the ACP are not very clear. Critical questions such as putting an end to the entitlement culture, and combining needs and performance criteria for aid allocation are not openly addressed. These are divisive issues inside the ACP. A diplomatic phrasing is found in the ACP mandate where it calls for a “cooperation policy and framework that is suitably tailored to individual circumstances for reasons of efficiency and responsive to different needs and conditions in the ACP”. The focus on *needs* rather than *performance* is clearer when the ACP request that additional funds are allocated to LDCs and that aid is concentrated on poverty eradication.

The ACP wish to tackle the lengthy procedures of current cooperation, and to overcome administrative bottlenecks. They wish to see a decentralisation of responsibilities to the field and the provision of more decision-making powers to the NAO and EU Delegate. This is also envisaged in the EU mandate.

On the issue of budgetary aid versus project aid, the ACP are more cautious than the EU. They call for the creation of suitable frameworks and an environment for direct assistance to budget, whilst maintaining project aid where necessary. This may reflect a compromise between “better performing countries” and those who are still in a less developed stage.

Finally, as mentioned before, participation and decentralised cooperation get less emphasis from the ACP than from the EU. This may reflect the conceptual and operational confusion on what decentralised

cooperation entails, as well as a lack of consensus among the ACP on this sensitive issue. The ACP recognise the “need for greater participation and give consideration to having more EDF money channelled through ACP civil society in areas where they have comparative advantages”. They also mention that “future cooperation could be reinforced through proper policy dialogue involving all the actors of cooperation”. Two conditions are set, however: That this is done within the priorities and objectives set by the State and provided civil partners can agree on mechanisms of representation.

Final Provisions

With a view to ensuring stability and predictability, the EU mandate proposes a global long-term agreement, together with financial protocols for 5 years and a review clause every 5 years. It insists on the need for a text that responds to the requirements of simplicity, legibility and accessibility, limited to the main objectives and general provisions of partnership (with procedural and implementation modalities referred to annexes).

For the ACP, a simplified Convention is acceptable and desirable but it should also be a complete text specifying “concrete objectives, principles and modalities for future specific and regional agreements”. The ACP also call for a long-term agreement with financial protocols for every five years and they suggest that the ratification process is limited to a 12-month period.

Lomé Negotiating Briefs are produced by the European Centre of Development Policy Management (ECDPM), an independent foundation with links to both the ACP and the EU. They are designed to provide information on key issues relating to the upcoming EU-ACP negotiations.

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