

Lomé Negotiating Brief

Implementing the New ACP–EU Partnership Agreement

In June 2000, the 71 ACP and 15 EU Member States concluded a new Partnership Agreement on political and economic cooperation. The new agreement sets out a comprehensive and integrated approach to alleviating poverty, contributing to sustainable development, and assisting ACP countries integrate into the world economy. Through this, and a strengthened partnership, it should – at least on paper – be more effective than past Lomé Conventions. This brief analyses the major changes in the new agreement, focusing on the political dimensions of the partnership, the extension of the partnership to new actors, the preparation of a WTO-compatible trade regime, and performance-based aid management.

Signed in June 2000, the new ACP-EU Partnership Agreement replaces the Lomé Conventions that, for the past 25 years, have framed the cooperation between African, Caribbean, and Pacific countries (the ACP) and Member States of the European Union (EU).

Those involved in the negotiations seem to be quite satisfied with the results. The challenge now is to shift the focus from the negotiation table to implementation in the field. Trade is the exception to this since new negotiations are set to begin in 2002.

This brief examines the major changes in the new agreement and looks at the implementation challenges.

Stronger Political Partnership

The new agreement reinforces the political foundation of ACP-EU cooperation. Political dialogue is supposed to be deeper and wider than at present. It will cover a broad range of political issues that fall outside traditional development cooperation, including areas such as peace building, the arms trade and military expenditures, conflict prevention and resolution, drugs and organised crime, as well as the sensitive issue of

repatriation or re-admission of illegal immigrants.

These new areas for dialogue join ongoing dialogue on the three existing 'essential elements' – the consolidation of democratisation processes, respect for human rights, and recognition of the rule of law.

The EU had wanted good governance to be included as an 'essential element' whose violation could lead to a suspension of EU aid. After lengthy discussion, good governance was defined by both parties as "the transparent and responsible management of public resources for the purposes of equitable and sustainable development." As such, it was accepted by the ACP as a 'fundamental element' whose violation would not constitute grounds for suspension of cooperation.

However, both sides did agree that serious cases of corruption, including acts of bribery, could constitute grounds to activate a consultation process possibly leading to the suspension of aid. This would only be a measure of last resort.

In the new agreement, a more active role in dialogue and conflict resolution is expected of the joint ACP-EU institutions. Civil society is to be associated with this dialogue, precisely how is not specified.

Extending Partnership to New Actors

A second new feature of the new agreement concerns participation by non-state actors and local authorities. While previous Lomé Conventions gave these actors few opportunities to influence policies or to gain access to resources, the new arrangement encourages the integration of all sectors of society in the development

8

June 2000

process and actively solicits their participation. A special chapter on the actors in the partnership underlines the priority given to this. The chapter explains that the new actors (civil society, social partners, private sector, local government), "where appropriate" will be:

- informed and consulted on cooperation policies and strategies, especially in areas that directly affect or concern them and on political dialogue;
- provided with financial resources to support local development processes;
- involved in the implementation of projects and programmes that concern them or where they have a comparative advantage;
- granted support for capacity building in order to strengthen their organisations and representativity.

This innovation is timely. Political reforms, economic liberalisation and decentralisation processes in ACP countries have stimulated a new role for the State and created more space for decentralised actors. The private sector, civil society and local governments are now expected to work in close cooperation with central government to tackle the challenges of globalisation, poverty alleviation, and the delivery of social services.

Provided that the process is properly handled, all parties stand to gain from more joint action between public and private actors.

Although both sides have committed themselves to establishing a more pluralist partnership, the text is vague on the precise ways to implement it. Some of the questions that need answers include: how will the new actors be involved in dialogue and programming? What mechanisms and modalities will be used? Who will decide which non-state actors will be involved in future ACP-EU cooperation? To what extent will non-state actors be able to gain access to resources? How can civil society and private sector organisations be strengthened so that they achieve greater legitimacy, become more representative and can act as responsible actors in development? Finally, how official ACP and EU bodies be strengthened to deal effectively with civil society?

More generally, moving from a strictly government-to-government to a more pluralistic approach is going to require fundamental changes in attitude, trust and working methods on all sides.

Openings for the Private Sector

The new agreement explicitly recognises the role of the private sector as an engine for development. A comprehensive and integrated programme of action to support the business sector is outlined at the macro, meso and micro levels. For the first time, the private sector will have access to funds from the European Investment Bank (EIB) without requiring a State guarantee. A new Investment Facility aims to stimulate regional and international investment, and to strengthen the capacity of local financial institutions. It will also encourage foreign investment and contribute to private sector development through project financing and support for commercially viable enterprises.

There is also a strong commitment to support an ACP-EU private sector business forum. This will articulate private sector interests and foster dialogue among ACP and EU private sector organisations. It will also operate as a platform for dialogue with ACP governments and the EU on development policy in general and on private sector development in particular.

New Trade Relations, to be Defined

The ACP-EU trade regime will undergo a profound transformation. The all-ACP preferential regime will be split into several trade and economic cooperation agreements. In each of these, the different ACP countries and regions will be treated differently by the EU. This is the most clearest sign of the 'regionalisation' of the ACP-EU relationship.

Reaching an agreement on a specific post-Lomé ACP-EU trade regime can be viewed as a remarkable achievement. Indeed, the key message of the Green Paper (1996) — that if nothing were done to strengthen ACP-EU relations, then they would disappear — was nowhere as strong as for the trade regime. The rules of the World Trade Organisation on regional trade agreements threatened the continuation of Lomé preferences, on the ground that they discriminated between developing countries by giving better treatment to ACP countries than to other, and sometimes poorer, developing countries in Asia. Since the EU had made it clear that it would not try to renew more than once the waiver from GATT's Article I, which it had obtained for Lomé IV-bis (1995-2000), the possibility of the ACP-EU specific trade regime disappearing at the turn of the century seemed real.

The agreement therefore appears to be a genuine compromise, where both sides made concessions. It is nevertheless apparent that the EU 'gained' the most. As the stronger party it raised the stakes considerably with its ambitious plan for free trade agreements. The ACP group initially adopted a defensive position, asking more or less to retain the status quo. The ACP preferred a compromise to losing their specific trade relations with the EU, largely because this would seem to further erode Europe's financial and political support to the ACP. The group's main successes were to retain three of the four commodity protocols¹ and to delay any radical changes until after 2007.

The only major immediate changes are the abolition of STABEX, SYSMIN, and of the rum protocol. In essence, the final text is "an agreement to agree" on new trade regimes to be implemented later. The current all-ACP non-reciprocal tariff preferences are maintained until 31 December 2007. Starting 2008, a set of Economic Partnership Agreements (EPA's) will replace them. These free trade agreements would be reciprocal and WTO-compatible — i.e. covering "essentially all trade" and implemented within 10 to 12 years. They would include provisions for cooperation and support in areas other than trade (structural adjustment, etc.). ACP countries are invited to sign as groups, building on their own regional integration schemes. The rationale is that freeing trade between ACP regional groups and the EU, combined with wider economic cooperation and support to ACP social development policies, will lead to economic growth and poverty reduction. While EPA's are expected to help ACP countries integrate "smoothly and gradually" into the world economy, there are still many views on the extent of their eventual impact (see box).

Not all ACP countries will have to open their own markets to EU products after 2008. The least developed (LDCs) are entitled to keep Lomé, or even a slightly improved version of it, without having to reciprocate. Non-LDCs who "decide they are not in a position" to enter into EPA's could be transferred into the EU's Generalised System of Preferences (GSP), a non-reciprocal set of preferences that is less generous than Lomé. Or they may benefit from "alternative arrangements" (yet undefined).

The nature of those "alternative trade arrangements" is one of the main uncertainties that still remain. Technically, the only solution seems to lie with an

improved GSP — the current one is due to be revised in 2004 — but both sides have ruled out this option so far.

In the shorter term, it is also uncertain whether the WTO waiver to extend the current regime until 2008 will be granted. Even if it is, it can be challenged by any WTO member, thus putting the agreement itself at risk.

The uncertain impact of EPA's

Supporters of EPA's stress their expected positive impact on:

- attracting EU foreign direct investment into the ACP;
- "locking-in" the process of trade liberalisation;
- helping to restructure ACP economies by a combination of trade-induced incentives and financial and technical support.

ACP and EU analysts have questioned whether EPA's will:

- generate extra profit margins for European exporters instead of lower prices for ACP importers;
- cause sharp drops in tariff revenues, difficult to offset by a diversification of fiscal revenues in the short to medium term;
- push ACP countries to liberalise their trade at a pace and to an extent less optimal than could be achieved unilaterally;
- make regional integration among the ACP more complicated (because, *inter alia*, of the different treatment given by the EU to LDC's and non-LDC's);
- keep ACP attention focused on bilateral, power-driven trade relations, rather than on the rule-based multilateral trade system (the WTO).

Beyond these question marks, the task ahead is huge. For instance, both sides will need a dramatic rise in their capacity if they are to negotiate and implement complex EPA's, while simultaneously handling trade negotiations in regional and multilateral forums. The technical and political issues related to each country's decision to sign EPA's (or not) may put a strain on the relations among ACP member states. While the next 8 years of continued EU trade preferences may provide the ACP with a sense of security in an increasingly liberalised world economy, it merely buys time before difficult decisions must be made.

Performance-based Aid Management

A fourth innovation is that future aid will be allocated according to an assessment of each country's needs and performance, combined with regular adjustments through a system of "rolling programming." Contrary to assessments based on needs criteria such as per capita GNP, population size, landlocked status, etc., the criteria for 'performance' will be more open to interpretation. The agreement states that performance will be assessed "in an objective and transparent

¹ The beef/veal and sugar protocols will be rolled over until the end of 2007. The banana protocol was amended to take into account recent WTO rulings, and the EU could lend support to banana producers. Following the rum market's liberalisation, ACP exporters should receive transitional support in the period 2000-2008.

manner" on the basis of progress in implementing institutional reforms, performance in the use of resources, and macroeconomic and sectoral policy performance. Spending programmes will contain jointly-agreed parameters and criteria for the reviews.

However, in the eyes of many ACP governments, this new system will give the EU more discretionary powers in allocating resources since it is not clear whether the criteria used will take sufficient account of the different conditions prevailing in ACP countries nor the degree to which they will truly be 'jointly-agreed.'

Additional Resources

The 9th EDF totals 13.5 billion euro, of which 10 billion euro is for the long-term financial envelope, 1.3 billion euro for the regional envelope, and 2.2 billion euro for the Investment Facility. A further 1.7 billion euro is available as EIB loans. The global amount is therefore 15.2 billion euro, an increase of 5% on the 8th EDF. This amount, plus the outstanding balances of previous EDF's (about 10 billion euro) gives a global total of 24 billion euro for the period 2000-2007. The Commission has committed itself to significantly increase disbursements to the ACP, perhaps doubling the current rate to reach 3.5 billion euro per year.

Looking to the Future

Once signed, the 20-year agreement will not enter into force until it has been ratified by ACP and EU Member States - a process that may take up to two years.

The shift from Lomé to its successor is less abrupt than could have been expected at the start of the negotiations in September 1998. On most of the controversial items on the negotiating agenda, the ACP have softened the more radical EU proposals. This is the case for topics like good governance and the re-admission clause. It also applies to some extent to trade where ACP countries reserve their rights to decide against EPA's

and to look into alternative WTO-compatible trade arrangements. They also obtained a slightly longer transition period than the EU originally proposed.

Three factors have contributed to these outcomes. First, after the abortive Seattle WTO round of multilateral trade negotiations, the EU sought to restore its credibility as a global player. Seattle thus significantly altered the perceptions of EU negotiators about the need for concessions, and paved the way for a compromise on the post-Lomé trade regime.

Second, the ACP Group demonstrated strong solidarity. Throughout the negotiations, and despite the differences and occasional tensions between the various countries and sub-regions, the Member States stuck to their common positions.

Third, the whole negotiating process was carried out in a more well-informed environment than ever before. The past three years has seen a huge mobilisation of ideas, expertise and commentary, from all types of actors, and from all corners of the ACP and EU. The debate was relatively public, conducted over the Internet (see the Euforic and EU-ACP Forum web sites), it included numerous consultations, workshops, and seminars (national, regional, international), it generated a large literature, much authored by ACP experts, and it instigated new institutional arrangements such as the Caribbean Regional Negotiating Machinery, ACP civil society and business forums, and an ACP local government platform. Together, these developments strengthened the vision, knowledge, and negotiating capacities on both sides, but especially on the ACP side.

A final afterthought. The new agreement offers a comprehensive framework to address most problems of the ACP. The 24 billion euro question is whether and how the ambitions set out in the agreement will work in practice. As before, this may be its Achilles heel.

The European Centre for Development Policy Management (ECDPM) is an independent foundation that aims to improve international cooperation between Europe and countries in Africa, the Caribbean, and the Pacific (ACP). It does this through capacity building for policy management, the promotion of policy dialogue between ACP countries and Europe, and through the provision of information and facilities for knowledge exchange.

Lomé Negotiating Briefs are designed to provide information on key issues relating to the EU-ACP negotiations. This Brief was prepared by Melissa Julian, Geert Laporte, Henri Bernard Solignac Lecomte and Kathleen Van Hove. Financial support from the Swedish Ministry of Foreign Affairs is acknowledged. For more information contact Kathleen Van Hove (kvh@ecdpm.org).

EUROPEAN CENTRE FOR DEVELOPMENT POLICY MANAGEMENT (ECDPM)
 ONZE LIEVE VROUWEPLEIN 21, 6211 HE MAASTRICHT, THE NETHERLANDS, FAX: (31)-43.3502902, E-MAIL: INFO@ECDPM.ORG
 ALL ECDPM PUBLICATIONS CAN BE FOUND ON THE INTERNET: HTTP://WWW.ONEWORLD.ORG/ECDPM