

The 2010 Revision and the Future of the Cotonou Partnership Agreement

Report of an informal seminar
Maastricht, 4 July 2008

ECDPM

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Discussion Paper No. 85

August 2008



EUROPEAN CENTRE FOR DEVELOPMENT POLICY MANAGEMENT
CENTRE EUROPÉEN DE GESTION DES POLITIQUES DE DÉVELOPPEMENT

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Acronyms

ACP	Africa, Caribbean and Pacific
APRM	African Peer Review Mechanism
AU	African Union
CPA	EU-ACP Partnership Agreement
EC	European Commission
EDF	European Development Fund
EPA	Economic Partnership Agreement
EU	European Union
JPA	Joint Parliamentary Assembly
MDGs	Millennium Development Goals
NAO	National Authorising Officer
RAO	Regional Authorising Officer
RECs	Regional Economic Communities

Nota Bene

This report was compiled at ECDPM by Innocent Ejolu, Nicolas Mombrial, Niels Keijzer, Veronika Tywuschick, Michael Kalilu, Paul Engel and Geert Laporte and edited by James Mackie, based on the discussions held at the Seminar on 4 July 2008 in Maastricht.

Unless otherwise indicated all references to the ACP-EU Cotonou Partnership Agreement (CPA) refer to the revised version agreed in Luxembourg in June 2005 (EC Office for Official Publications, Luxembourg 2007 ISBN: 978-92-79-07071-6) and its annexes. Wherever possible the reference to the specific CPA article or annex is given.

Introduction

The EU-ACP Partnership Agreement (CPA) was signed in 2000 in Cotonou, Benin for 20 years, and includes provisions that allow for a review and possible revision of the Agreement every 5 years. The first review took place in 2005 and resulted in revisions with regard to – among other issues – the Millennium Development Goals (MDGs), the management of the European Development Fund (EDF), peace and security and political dialogue. According to the calendar provided in the Agreement the parties have to notify each other about issues for the 2010 review by the end of February 2009. Mid-2008 is therefore an appropriate moment to start reflecting what this second review might consider.

The review process feeding into the second revision in 2010 will obviously provide an opportunity for both the European Union (EU) and the countries of Africa, the Caribbean and the Pacific in the ACP Group to adapt the Agreement to recent major changes in international and ACP-EU relations. Beyond that however this is the mid-term review of the CPA and as we enter the Agreement's second decade the parties will be considering where they want to be in their relationship by the end of the Agreement in 2020.

Both parties started to prepare for this second review in early 2008. The European Commission established an internal inter-service Task Force and discussions with the EU Member States on the draft negotiating mandate will take place in the last quarter of 2008. The ACP have also commenced their own internal reflection on the revision and asked a group of Ambassadors to lead this process. The negotiation mandates will be finalised in early 2009. Thereafter, the formal ACP-EU Negotiations on the revision will take place between March 2009 and the beginning of 2010.

As an independent foundation specialising in ACP-EU relations, ECDPM was approached by a number of stakeholders with the request to facilitate informal discussion on the revision before the formal negotiations start. In response the Centre organised an informal seminar in Maastricht on 4 July 2008 with a view to stimulating debate on the upcoming revision and the possible implications for the future of ACP-EU cooperation. A small group of people participated in the meeting, including ACP Ambassadors from different ACP sub-regions, the ACP Secretariat, the AU Permanent Mission to the EU, a select group of EU Member States, as well as ECDPM Board members and staff.

In recent years the ACP-EU relations have been confronted with diverse external and internal challenges, including regional integration and the negotiations for the Economic Partnership Agreements (EPAs), the emergence of the African Union, the enlargement and increasing diversity of the EU, the proposals for changes to EU institutions in the Lisbon Treaty, etc. These challenges have also prompted differentiation within the ACP Group, leading some observers to question the longer-term relevance of the grouping. Acknowledging the importance of addressing this question the ACP has also embarked on a review of the Georgetown Agreement¹, and thus on the future of the Group itself. The Review of Cotonou and the future of the ACP while interrelated are clearly also distinct and need to be treated separately. Some observers also suggest that there is a sense in which the ACP are disenchanted with Cotonou, pointing to the fact that for the

¹ The Georgetown Agreement is the legal basis of the ACP Group. It was signed in June 1975 (subsequently revised, most recently in 2003) between the ACP countries that had just a few months previously signed the first Lomé Convention. Currently however, there is one ACP state, Cuba, that is not signatory to Cotonou demonstrating the independent status of the ACP Group from the CPA. The Georgetown Agreement is an indefinite agreement that has as its major objective the strengthening of the negotiating position of the ACP in international relations and not just with the EU.

first time ever it has taken the ACP longer to ratify changes to the CPA (the results of the 2005 review) than the EU. It is certainly true that the EPA negotiations have caused widespread disquiet that surfaced most notably at the Africa-EU Summit in December 2007. The upcoming review of the CPA should therefore also be an opportunity to address a number of these challenges so that ACP states and regions can exploit the CPA to its full potential.

As it is a highly ambitious and complex Agreement, various key actors consider it crucial to not reduce the review process merely to a negotiation over written text, but rather to combine such an exercise with an open and constructive debate aiming to improve the operationalisation and effective implementation of the present Agreement.

This report focuses on the main outcomes of the discussions during the 4 July Seminar, which have been grouped in the following five sections:

1. Improving ACP-EU political dialogue
2. The implications of increasing differentiation in the ACP group
3. Improving ACP-EU aid effectiveness
4. Implications for the ACP-EU institutional framework
5. The way forward

1 Improving ACP-EU political dialogue

1.1 Context of the discussion

Political dialogue is a key element of the Cotonou Partnership Agreement and one that was already substantially strengthened in the 2005 revision. Articles 8 and 96 that deal with *'political dialogue'*, the *'essential elements'* and, the *'consultation procedure and appropriate measures as regards human rights, democratic principles and the rule of law'* are two vital provisions within the CPA around which a debate continues. As the changes brought in by the 2005 revision for the CPA have only recently been ratified it is not yet clear whether in practice that revision went far enough in making Article 8 more supportive in facilitating enhanced ACP-EU engagement through political dialogue. ACP states in particular remain keen that Article 8 dialogue is more fully exploited before the heavier provisions of Article 96 are brought to bear. Whether or not the 2005 Review reinforced this principle adequately will only become evident in the months ahead as the revised provision start to be put into practice. Other articles of the Political Dimension chapter of the CPA (Part One, Title II) also touch on aspects around which a significant measure of ACP-EU political dialogue is based. Thus Article 11 on peace building policies, conflict prevention and resolution provides the basis of the Africa Peace Facility and Article 13 on migration covers an area where there has been considerable dialogue between the ACP and the EU. Both can be expected to continue to provide scope for future ACP-EU engagement.

Participants discussed the future of ACP-EU political dialogue within the context of the following perspectives and the related CPA articles:

- (i) Improving effectiveness of the dialogue in terms of how joint decision making occurs (Article 8) and in particular with reference to consultations on the essential elements (Article 96);
- (ii) Improving the ACP voice vis-à-vis the EC approaches to governance, (Article 9);
- (iii) Improving the handling of peace and conflict issues with the need to create mechanisms geared more towards state building and the prevention of conflict, (Article 11);
- (iv) Reorienting approaches to migration with a shift to measures that emphasize and harness the opportunities that migration offers as an instrument of development, (Article 13).

1.2 Effective political dialogue

1.2.1 How to improve political dialogue and, in particular, how to avoid recourse to sanctions?

There is still a view that not much experience has yet been gained in the implementation of Articles 8 and 96. This is probably due to several factors. First, the latest version of the CPA with the changes agreed in 2005 to the way Article 8 and 96 are used, has only just been ratified in July 2008, and there has therefore been no chance yet to test these new provisions formally even though some actors may have tried to already follow the spirit of the 2005 Review in this area. Second there is a lack of reliable information on the use of Article 8: while the ACP Secretariat is involved immediately when Article 96 is

invoked this does not happen with Article 8 and therefore it has no overview of its usage; nor does the Commission have a formal need to consolidate information on Article 8 use even though it did collect some in the process of the work on the EC 'governance initiative'. Last, but not least, it would seem that no independent research into the use of Article 8 has yet been done. As a result there remains a feeling among ACP stakeholders that the use of Articles 8 and 96 has not been very successful. In particular the concern remains that there is still a tendency to resort to Article 96 without exhausting the application of Article 8 and therefore insufficient attempts are made to minimize the use of sanctions, even though these are in any case widely considered ineffective and not the ideal way forward.

How to apply Article 8 better is therefore a critical test for the CPA, the challenge being to exploit existing channels better, or perhaps even create new ones, to achieve more effective engagement with less formalised interaction. The annual Joint ACP-EU Council of Ministers, as a forum for political dialogue, meets far too infrequently so it is essential to use more flexible consultation mechanisms such as the Troika to achieve a smooth and effective political dialogue between the ACP and the EU. Intra-ACP dialogue also needs to be encouraged as it can provide a stronger basis for a more pragmatic approach in the application of Article 8.

1.2.2 Is the potential of Article 8 understood?

Whether Article 8 is well understood is a critical concern. Whilst it is obvious that political dialogue is at the heart of the Partnership, this is not reflected in the apparently lukewarm utilisation of the article. Not many African countries have for instance invoked Article 8 and initiated dialogue – perhaps an indication that ACP countries need a more conducive framework in which to initiate political dialogue. On the other hand it may be less a question of the formal text and more an issue of increasing awareness and understanding so that Article 8 is recognised as vital in building a strong, credible and effective process of ACP-EU political dialogue. Recognising this need, the ACP Secretariat made an effort in 2002 to draft a set of guidelines for the use of Article 8 and these were even agreed at the level of the Joint ACP-EU Council of Ministers, but there is no indication that these are used or that actors are still aware of them. This higher awareness and shared understanding of Article 8 will not be achieved if there continue to be competing views on whether or not its text is flexible enough to stimulate ACP countries to initiate political dialogue.

1.2.3 What format should the political dialogue take for best results?

There is also a need to address the question of the best format in which the political dialogue should be conducted between the ACP and the EU. For a single ACP country to invite all the EU member states with accredited diplomats in its country may for instance be quite a forbidding undertaking whereas a one to one dialogue with the EU Presidency or the EC Delegation may be more accessible and less overwhelming. The aspect of political dialogue at the regional level with groups of ACP States engaging with the EU might also offer opportunities that could be facilitated by considering whether or not the phrasing of Article 8 could be improved to encourage regional dialogue on relevant issues. A specific concern also emerging from the Caribbean relates to the evolution of the EU-AU relationship. This initiative is seen as carrying the risk that some decisions taken in the framework of the 'wider' Africa (i.e. Africa as a whole) -Europe, continent to continent cooperation, might have implications for other regions in the ACP Group. How

can the CPA revision process ensure that the Caribbean and the Pacific are fully part of these rapidly evolving debates?

1.2.4 How can the ACP Members be more proactive in initiating political dialogue?

The imbalance in the orientation of the debates going on within the ACP-EU in the political dialogue process has been raised as an issue, with the ACP concern being to focus the debate more on development as opposed to the frequent tendency to over-politicise issues. Why ACP Member States have been less proactive in initiating political dialogue is linked, in part, to the perception that the EU essentially uses Article 8 to raise critical and political points to do mainly with human rights, democratic principles, the rule of law and security. Over-politicising the relationship was a mistake and there is a real need to focus also on more development policy issues in the dialogue. Yet there is also a question of political will and a need for ACP countries to be more assertive and proactively engage in dialogue on political as well as other more development related issues.

1.2.5 How to build momentum from the small but significant gains on Article 8?

At the same time there is recognition that the situation is not entirely negative. There clearly are cases of ACP-EU political dialogue on a variety of different issues leading to positive outcomes. This provides a firm basis on which to build momentum for an effective political dialogue process within the ACP-EU. For instance a practical example of an effective political dialogue was cited in the consultations going on between West Africa and the EU on the issue of human trafficking, within the wider debate on migration, given the critical role West Africa plays as a transit route. This political dialogue, occurring largely within the framework of the opportunities created in the CPA, has delivered a number of positive results that show that Article 8 can work but must be fully exploited.

The revision of the CPA should consider, as a guiding principle, the need to establish a pragmatic dialogue that achieves results. A recognition that the choice of the level at which consultation is conducted depends on the nature of problem at hand is also imperative and should inform the review process. Dialogue must happen at different levels. The challenge in the CPA review process will be in the determination of the most appropriate levels at which to engage on different development issues. A shift to a more systematic but flexible political dialogue on a group-to-group basis, and not so much using the current practice where single ACP states meet the EU as a block, is seen as preferable by many.

In sum while there was general agreement that the political dialogue provisions of the CPA were probably not being as effectively and widely used as they might be, the problem could be as much a question of political will as of inadequate provisions. There was also a dearth of systematic information about how much and for what Article 8 was in practice being used. Moreover the changes from the 2005 Review in this area, and in particular on the link between Articles 8 and 96, had not had time to show their worth because of the slow ratification. Consequently, while there was clearly continuing concern over the adequacy of political dialogue in ACP-EU relations, revising the text of the Agreement might not in fact be the best way to address outstanding issues.

1.3 Approaches to governance

The question of governance is now much more of an active issue in ACP-EU relations than at the time the CPA was drafted. The definition of good governance in Article 9 could perhaps benefit from some review in the light of the experience gained on both sides. The definition is currently fairly specific² and might be more useful as a framework to create conditions to facilitate strengthening governance, and particularly governance that also promotes ownership, if it was more broadly worded. The experience of the EC's 'governance initiative' over the past couple of years had also been somewhat negative as it had been perceived as too much of an EC-imposed exercise not always well adapted to local circumstances and insufficiently based in dialogue with the ACP.

In addition, participants observed that there was increasingly an issue around the governance of the ACP-EU relationship itself and a need to review decision making processes so as to increase transparency in order to strengthen the partnership. The EU is seen as increasingly directive and unilateral in its actions and in some quarters there is a view that there is hardly any partnership to speak of on the ground any longer. To make the partnership more real and meaningful, there is thus a need to consider whether it is just a question of broadening the concept or whether a more fundamental rethink is required. Adequate monitoring was also raised as pertinent to the question of governance of the implementation of the CPA: country and regional strategy papers seem to be a useful tool in this regard, but whether these are optimally used is an issue that is emerging as a concern that the CPA review could consider.

1.4 Peace building and conflict resolution

Article 11 had been extensively revised in the 2005 Review but this related more to new provisions on security such as the fight against terrorism and the weapons of mass destruction. It did not seem necessary to look at these new provisions yet.

At the same time and as already noted above, since the start of the CPA, Article 11 had been the basis for extensive activity in ACP-EU cooperation and most notably for the use of EDF funds in the Africa Peace Facility with the regional and continental authorities in Africa. Overall there had been a tendency to work more at the level of crisis management rather than on preventing conflict which was understandable but not necessarily the best priority. This was an issue on which the CPA review could reflect with a view to strengthening Article 11 so as to emphasise more the importance of conflict prevention work and seek to reorient the work in this area so that it had a more direct link with and focus on development.

1.5 Migration and development

Article 13 on migration focuses primarily on the policing and management of migration and the rights of migrants, and in fact only partly addresses the nexus between migration and development. However there is an emerging consensus in both the ACP and the EU on the need to emphasize this as the driving principle in the management of ACP-EU migration. Elevating the significance of migration as an instrument of development as one of the underlying principles of Article 13 by re-titling the article as *'Migration and*

² Article 9.3 of the CPA defines good governance as “ *the transparent and accountable management of human, natural, economic and financial resources for the purposes of equitable and sustainable development.*”

Development' and ensuring that its provisions correspond to this would reflect better the state of the debate between the parties to the CPA. There is for instance no reference to the role of remittances or of diasporas in development and these could easily be added.

Intra-ACP migration is also a vital issue as the bulk of migration in much of the ACP is intra-regional rather than to and from Europe. However, although migration is one thing that concerns the whole ACP it is also true that the specific issues of concern on migration vary from region to region and it still remains somewhat unclear what the main preoccupations are that would really unite governments across the whole Group. With a view to the CPA review it would be useful to achieve greater clarity on this as if this is not done there is a risk of migration being more thoroughly tackled from an EU perspective and less so from an ACP view.

1.6 Recommendations

In sum for the up-coming CPA review in 2010, while for Article 8 the main current issues seem not to really suggest the need for improvements to the text, in other parts of the Political Dimensions chapter (Part I, Title II), revisions to the text may well be more useful. Thus in Article 9 the definition of good governance could be reviewed in the light of experience gained. Equally in Article 11 attention might be paid to how the article might put more emphasis on conflict prevention and peace-building as an activity based on the article has been far more about crisis management and the changes in the 2005 Review heavily emphasised security issues. Similarly consideration could be given to reviewing Article 13 so as to reflect better the current consensus and practice on migration issues in ACP-EU cooperation and perhaps to re-titling it as on 'Migration and Development' so as to emphasise the importance of this angle.

Overall there is a question of the use made of the political dialogue provisions in the CPA. Too little systematic information is available on this, but despite clear positive examples it does seem as if experience is patchy and far from uniform. In particular ACP states seem reluctant to initiate dialogue, possibly because the image of CPA political dialogue has perhaps become too politicised and inadequately focused on development issues and policy discussions. ACP states therefore seem to shy away from a dialogue that they often feel the EU uses to impose its political views. There is also a sense that the governance of the ACP-EU relations themselves is becoming too lopsided and lacking in real transparency. In short, a serious and balanced political dialogue is needed more than ever in the implementation of the Agreement. Whether this really can be enhanced by revisions to the CPA text is however a moot point. The fundamental issue is probably more about political will, honest self- assessment and mutual respect for the other parties' points of view.

Box 1: ACP-EU Political Dialogue in the 2010 Revision

1. Promote independent analysis on the application of Articles 8 and 96
 2. Increase awareness and understanding of the potential of Article 8 for political dialogue
 3. Improve quality and effectiveness of dialogue by determining the most suitable level for dialogue depending on the type of problems identified (Troika, Council,)
 4. Stimulate mechanisms for intra-ACP and regional dialogue in relation to Articles 8 and 96
 5. Review the definition of Article 9 on governance
 6. Emphasize conflict prevention and peace building in Article 11
- Revise and re-title Article 13 as on 'Migration & Development' so as to stress the potential of positive links between migration and development

2 The implications of growing differentiation in the ACP Group

2.1 Introduction

Various processes in the past few years have reinforced the regional levels within the ACP. This has resulted in increasing differentiation between the needs of each regions and in the logic of their respective cooperation with the EU, although this does not necessarily call into question the logic of overall ACP-EU cooperation. The growing significance of the African Union as a partner for the EU, in particular with respect to peace and security, increasing EU work with regional bodies such as COMESA or ECOWAS, the EPA negotiations with six different regions, and the EC's decision to adopt specific regional strategies towards Africa, the Caribbean and the Pacific, have all contributed to this differentiation process. Africa and the EU have gone as far as adopting a joint strategy to frame their cooperation which goes beyond the traditional sub-Saharan Africa/North Africa divide in EU external relations. Equally broader global forces and other regional actors have had their role to play in pulling ACP and EU in a variety of directions not envisaged at the time Cotonou was signed. These new challenges will also feed the ACP Group's internal reflection on its own future.

The aim of this session was thus to reflect on how these developments in international relations impinge on and change ACP-EU relations with the following questions providing a basis for discussion:

- Would the coherence and effectiveness of the CPA be enhanced by seeking to reflect any such shifts in relations in the text or was there rather a danger that the overall ACP-EU construct might be weakened by acknowledging differentiation too explicitly?
- Which are the areas of strong common all-ACP interests and value added? Should the ACP concentrate more on these areas and make them the core business of the Group?
- What complementarity and role division is best envisaged between the ACP and other new players (eg. Regional Economic Communities, African Union) ?
- How best to reflect the increasing role played by the AU: in peace and security cooperation, the use of the APF and as a political partner in global affairs?
- Which tasks and areas might be better handled at the regional level? What are the institutional implications?
- Can RECs play a role in addressing current challenges, such as agriculture, private sector development, migration ?
- In which areas could the ACP Group usefully call for greater EU policy coherence for development? What stock taking or assessment can be made of the use made of Article 12³ on coherence of EC policies and their impact on the CPA?

³ The full title of the CPA's Article 12 is '*Coherence of Community policies and their impact on the implementation of this Agreement*'. It provides for the EC to inform the ACP about any policies that might have such an impact and invites the ACP to also initiate such queries from their side if they deem necessary. It also provides for consultations between the parties on any cases of incoherence that arise and stipulates that ultimately the EC shall provide the ACP with its reasons for proceeding with any action that the latter feel affects their interests.

2.2 Added value of the ACP group and trends towards regionalisation

A consensus emerged among the participants that the main common interest and added value of the ACP Group has always been the bargaining and political power which the individual members gain by being able to position themselves and negotiate as a bloc in international fora. Trade negotiations and negotiations concerning Rules of Origin in particular are good examples of issues that are better dealt with at the all-ACP level. ACP countries continue to share many common interests due to them all being developing countries, hence aiming to move towards development on a sustainable basis and guided by common principles (e.g. democracy). Many of them also share a longstanding common history of close relations with different parts of Europe resulting in many shared cultural and social values and systems as well as economic ties. They also share the experience of working with the EDF as a funding instrument and the history of administrative, financial and management practice that has been built up in this context over many years in collaboration with the European Community.

Some participants felt that the Group's bargaining power had been strengthened over the years due to the long experience of negotiating together, especially with the EU, while others noted that although there clearly was added value in the political weight of a group now totalling 79 countries, the actual use made of this potential bargaining power was affected by the erosion of shared common interests among the Group. A reflection had recently been organized within the ACP to identify more explicitly such issues of common interests and this process had identified a number of key areas of shared interest, including cooperation for development, culture, migration, environment protection and climate change. There are also sub-groups of countries that transcend the continental regions within the ACP Group, such as the group of small island developing states, which share particular experiences and concerns.

The question was raised whether such issues are not better dealt with at the regional and continental level such as through the AU for Africa. The Joint EU-Africa Strategy adopted at the Lisbon Summit in December 2007 has been an important new evolution in the debate on the relevance of the Cotonou Partnership and ACP-EU cooperation. Obviously a continent-to-continent dialogue between the EU and Africa as a whole holds a strong potential for a reinforced political partnership. With the Joint EU-Africa Strategy there seems to be an increasing awareness that the AU might be better placed than the ACP to serve African interests particularly in political areas such as Peace and Security or migration. However, for the AU to become a strong political partner of the EU, the political commitment needs to be complemented with major investments in capacity building. The Joint EU-Africa Strategy still needs the mobilisation of substantial funding if it is to avoid the danger of simply becoming yet another 'paper strategy'. These evolutions in the African-EU partnership may also have major implications for the Caribbean and the Pacific who should now start their own strategic reflection as to how to sustain and reinforce their special relationship with the EU beyond 2020.

The EU is now exploring the possibility of creating a special envelope for relations with the AU and pan-African activities. The funds for such an envelope would probably be taken from the intra-ACP envelope of the EDF and as yet it is not certain whether or not further funds would also be forthcoming from the European Neighbourhood Policy Instrument. Normally North-African countries should not benefit from EDF funds channelled to the AU unless there is also such a contribution from the ENPI. Participants expressed a clear wish to further explore how complementarity and synergies between the AU and the ACP could be identified and put to optimal use, including in events where both organisations meet with the EU in a more formal setting.

The regional approach to tackling certain development issues was seen as a sensible one in operational terms and one that was well rooted in ACP countries' own plans and policies, rather than something foisted on them by the EU. Negotiating the EPA at a regional rather than an all-ACP level is for example sensible due to the difference between the trade structures between the countries in the different ACP regions. Regional cooperation can further strengthen the ACP as a Group, and does not necessarily mean that action will be taken only at the regional level. However, it is also possible to take this logic further and a scenario was proposed for the longer term which would be to change Cotonou from an Agreement between 106 (79+27) nations to a cooperation agreement between four regional groups: Africa, the Caribbean, the Pacific and Europe. This could strengthen regional integration, enable the regions to take part as regional organizations in the political dialogue, and possibly lead to simpler and more dynamic relationship.

2.3 Implications for the ACP of changes in the European Union

Another issue shaping the future of ACP-EU relations is the changing nature and shape of the European Union. It was noted that the EU's new member states since 2004 do not have a history of cooperation with the ACP. The development cooperation programmes that they are currently establishing thus also have a different geographical focus that rather reflects the interests and external links of their governments and peoples. This is a reality of the historical development of the EU that cannot really be challenged. Institutionally the EU is also seeking to change the mechanisms that manage its external relations and, even though the Lisbon Treaty has not been ratified for now, some of these proposed changes are likely to be brought back and have an impact on the ACP in the longer run. Together with the regionalisation processes, the changing EU will thus have important implications for what ACP-EU cooperation will look like by 2020.

It was felt that these changes also have important implications for the Georgetown Agreement and whether it was most advantageous for the ACP to maintain the overall unity of the Group or move to a more regionally differentiated model. These issues should therefore be examined in the ACP's internal reflection on Georgetown. Clearly it would also be important that the existing EC/EU regional strategies were taken into account in the review of Cotonou, while it was stressed that the CPA Articles 28/29 on regional integration already provide a strong basis for cooperation in this area. In essence, however, it is clear that the ACP must themselves decide whether they want to maintain their Group or not, and that is not an issue that the EU can get involved in or make up for any lack of political will to move forward on their side.

2.4 Policy coherence for development

Finally, concerning Article 12, which relates to policy coherence for development, participants felt that the present Agreement's text seems to be adequate and would not require any revision. What is needed however is for the ACP to be much more proactive in the use of this article to question the EU on the coherence of its policies, as no evidence is available that it has been invoked by the ACP members. It would probably also be useful to ensure the Group as a whole was involved in such debates as these would be more likely to have an impact on EU policy. This was seen as a good example of where one single ACP country would not have the necessary weight alone to stand up to the EU, whereas when working as a block they certainly could.

2.5 Recommendations

The discussion clearly showed the importance of the question of increasing differentiation between ACP regions and the changing EU relations with different regions of the ACP as a major element of the context in which the 2010 review was taking place. However, although the language of the CPA in this area could usefully be updated with regard to certain specific issues (eg. the EPAs, regional integration, the role of the regions in political dialogue, possible financing envelope for regional funds) the key challenges are really to be found in the implementation and in putting into practice the vision of the partnership. The very limited use made so far of the policy coherence article (Article 12) is one illustration of an area where the language of the CPA is not an inhibiting factor but where the ACP could benefit more from the Agreement by taking more proactive action.

The ACP's internal review on the added value and shared interests of the Group will clearly provide a useful basis from which to go forward to the 2010 Revision. For the African states to agree on the complementarities and synergies and an optimal task division they wish to see between the ACP and the AU, would also be extremely useful, not least because it would give their Caribbean and Pacific colleagues a clearer basis for working out their own priorities.

Equally, however it is important to recognize the role of actors other than just member states in these debates. Thus there is a need to give more space for actors such as the RECs, civil society, NGOs, and national parliaments, who even though sometimes clearly acknowledged in the text (eg. Article 6: civil society), should be systematically included in practice.

Box 2: Regional differentiation and the 2010 Revision

- Update Cotonou text with regard to latest developments on EPAs and the role of regions in the partnership (eg. in political dialogue, funding, etc)
- Explore options for enhanced cooperation between the EU and three separate regional groupings of the ACP
- Launch debate with all actors involved (ACP, AU, RECs, regional and national Parliaments, civil society,) on the complementarity between the ACP and the AU
- Where necessary (eg. with national parliaments currently only briefly mentioned in Article 17) the CPA text might usefully be strengthened to encourage this involvement of other actors.
- Strengthen information provisions and capacity building so as to be make a better use of existing provisions and ensure better implementation
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3 Improving aid effectiveness in ACP-EU cooperation

3.1 Introduction

The signing of the CPA in 2000 marked a radical shift in ACP-EU cooperation for development from 'aid entitlements' (country aid allocations regardless of performance) to a 'performance-based partnership' guided by assessment of mutually agreed obligations. Article 2 of the Agreement put upfront that in this regard the "*ACP states shall determine the development strategies for their economies and societies in all sovereignty*". The text of the Agreement has led to the development of the particular mechanisms for delivering ACP-EU development cooperation under the European Development Fund (EDF) that we know today, guided by the principles of 'co-management' and 'joint programming'.

Nevertheless, practice has shown that the key partnership principles of Cotonou have become eroded over time. The way sector and general budget support is allocated as well as the use of thematic budget lines that are principally administered from Brussels are felt to have reduced the proper application of the co-management and joint-programming principles in practice. Moreover, the implementation of the Agreement has coincided with other key changes in the area of development cooperation which have also influenced its execution, such as the adoption of the Millennium Declaration, the reform of EC external assistance and the signing of the Paris Declaration on Aid Effectiveness. The periodic discussions on incorporating the EDF into the general EU budget (the so called 'budgetisation' of the EDF), which surface regularly at the time of each renewal of the EDF, have also contributed to raising doubts on the application of the partnership principles. While some argue that such *budgetisation* would have clear advantages for the ACP it is also difficult to see how the co-management principle can be maintained in the use of the EU budget which the EC alone has the legal mandate and obligation to execute.

The following three questions guided the discussions during this session:

- Does the increased use of thematic funds and budget support affect co-management?
- How can joint programming be enhanced?
- What mechanisms are needed for ACP countries and regions to monitor aid effectiveness?

3.2 Improving co-management and joint-programming

The use of budget support is of great importance for the ACP countries, as it increases ownership and thereby promotes a more genuine partnership, as well as relations based on trust. A number of countries were mentioned where this had proved to be the case. In this respect, it was welcomed that a large part of the 10th EDF, possibly as much as 85% of the NIP envelope, will be delivered through budget support. Using this modality can very clearly help ACP countries to feel responsible, and be respected. In the same context, it was also argued that there is a need for ACP countries to share lessons learned in the area of budget support, and that programmes should be envisaged to strengthen other countries to become eligible for budget support.

For the programming of the EDF in general, however, it was observed that the *joint* nature of the programming could be improved upon. It was noted that during the programming of

the 10th EDF, the EC was often felt to impose the choice of certain sectors on the ACP to the extent that no real dialogue on the choice of priorities was possible. At the same time it was recognised that ACP countries could also make more of an effort to present their preferred sectors to the EC in advance, so that the EC would at least then be obliged to explain why they preferred a different choice. Through such an interaction one could then expect that more genuinely joint priorities could eventually be defined. In general, there is a need for more forward looking strategic thinking in ACP countries and proactive interaction with the EC in the joint programming exercise.

Similarly it was recalled that in the past there had been discussions in the ACP Group for using the intra-ACP resources for thematic purposes. If the use of these funds in this way, and according to mutual thematic priorities, is agreed after discussion, this should be welcomed, but these choices should also not be imposed by the EC. In general, it was felt that the principles of ownership and alignment, as also expressed in the Paris Declaration, could in practice be better respected in ACP-EU cooperation.

In addition to the importance of being more proactive on priority areas, it was also observed that ACP countries – particularly when working at regional levels – may take too long to come to joint decisions. In such a long process, the EC may understandably at some point put some proposals for potential priorities on the table to gauge possible reactions and seek to move the debate forward. This however should not be perceived, or indeed used, as an effort to close the debate, but as a trigger for dialogue on priorities.

3.3 Realising the new aid agenda in practice

It was argued that some EU member states lack the capacity to actually apply the 2007 EU Code of Conduct on Complementarity and Division of Labour and that as yet efforts to implement it systematically still lack any genuine impetus. EU representatives nevertheless confirmed the commitment of their governments to promoting the Code, and suggested some progress could be observed among groups of like-minded donors. At the same time it was noted that there is still a lot of discussion on how precisely to implement the Code and whether to do so vigorously or not. In particular, there appears to have been hardly any progress in the agreed self-assessment exercise for each member state to define the comparative advantages and specific added value of its own development cooperation programme. Yet this assessment is a crucial element for the successful implementation of the Code.

ACP participants had realised that there is still a lot of discussion between EU member states about how best to implement the Code of Conduct and the Paris Declaration, but nevertheless felt that the Code is probably the only properly articulated attempt to put the Paris principles into practice and as such one of the most hopeful initiatives on the table. Some support had been envisaged to help partner countries to effectively lead on the division of labour, but this had encountered problems often due to lack of information and sufficiently precise data so in practice it often proved difficult for ACP countries to take the lead. The effectiveness of aid thus very much remains a live issue in ACP-EU relations and the Paris Declaration an important goal, with the principal concerns being: (1) whether ownership and alignment will be enabled in practice; (2) whether budget support and the EC's proposed MDG contracts will help to improve predictability; and (3) whether ACP countries will make further progress by demanding greater involvement in the review procedures, and where applicable, by signing up to the Paris Declaration.

It was noted that a number of EU member states are faced with human resource cuts and increasing aid budgets at the same time. Whereas this may appear alarming, it may at the same time also be a strong incentive to improve coordination, complementarity and the division of labour. The Code of Conduct should lighten the burden of all actors, particularly the over-visited developing countries. Equally progress on division of labour may be hampered by political and/or bureaucratic resistance on the part of development administrations, both in Europe and the ACP. Given that thematic specialisation could lead to job losses, it might not be in everybody's interest to promote sufficiently far-reaching changes. As this debate is not new – a Council paper from 1974 already spoke of the need to promote coordination – and as the Code of Conduct is not a 'compulsory' document, some argue that not much progress may be expected. Nevertheless, donor coordination and complementarity is still seen as one of the most important ways forward to improve aid effectiveness.

3.4 Monitoring to increase effectiveness

The question of what monitoring mechanisms could be envisaged to improve ACP-EU aid effectiveness was also considered. In this regard a strong view was expressed that monitoring is a prime role of the Regional and National Authorising Officers. As the relationship between an ACP government and the local EC Delegation is crucial for the quality of the development cooperation relationship, the NAOs' capacity to adequately monitor progress requires serious attention. It was underlined that whatever one would like to see happen in development cooperation terms will ultimately depend on this relationship between individual high level officials on each side.

In addition to this, the role and involvement of ACP national parliaments (as well as the JPA) and non-state actors in monitoring should also be considered. In the absence of their involvement, decision making between the government and the EC Delegation is likely to lack real transparency. There are passing references (Articles 7 and 17) to the roles these two types of actors might play in monitoring, but these could usefully be made more specific. Equally it was pointed out that monitoring systems also need teeth and some form of enforcement mechanism if they are really going to be effective.

Going beyond just monitoring and in order to encourage compliance, establishing some form of ombudsman mechanism in ACP-EU cooperation might be a useful way of ensuring that the institutions involved really implement the actions agreed upon. It was noted that the International Financial Institutions have independent inspection panels. Such a panel could also be established for the EDF and could, for instance, report to the Joint Parliamentary Assembly. More extensive engagement with the EU Court of Auditors was also considered, though it was recognised that, while they did cover the EDF, they are strictly EU focused and responsible to the EU side only. At the same time it was noted that establishing new structures that would inevitably have costs would meet resistance so proposals needed to be realistic.

In terms of strengthening the text of the CPA to encourage effective monitoring it was pointed out that this could be deemed to be one of the objectives of the political dialogue provisions even though this is not explicitly stated in Article 8. Specific mention to monitoring of the implementation of development cooperation might therefore be a useful addition to the Title on Political Dimensions. For instance, one idea might be that Article 12 on coherence could be extended to include this need for monitoring in an explicit way. On the other hand one can also argue that Annex IV, Article 5 on the Review Process,

already specifically discusses monitoring and review ascribing the principal role to NAOs and RAOs. So the real issue is to ensure these mechanisms are used effectively.

3.5 Recommendations

All participants attached considerable importance to the EU's Code of Conduct on Complementarity and the Division of Labour and saw this as one of the key current initiatives for increasing aid effectiveness in the ACP-EU cooperation. The importance of monitoring was also stressed but it was recognised that this was often not enough on its own. The discussion thus went further into considering how to back up monitoring with mechanisms, such as inspection panels or ombudsmen, that would encourage parties to comply with their obligations. These are clearly new realms for the Cotonou Agreement and the inclusion of some such mechanism in the text would be a major innovation.

Box 3: Improving aid effectiveness

1. Provide for the creation of an ombudsman or independent inspection panel in the CPA so as to monitor implementation of Cotonou and EDF and encourage compliance
2. Ensure broad based participation of ACP national parliaments and NSAs in the monitoring of ACP-EU cooperation
3. Consistently apply co-management principles in programming and monitoring of cooperation
4. Enhance ACP capacities for coordination and ownership of ACP-EU cooperation
5. Ensure EU member states effectively apply the Code of Conduct on Complementarity and the Division of Labour.

4 Implications for the ACP-EU institutional framework

4.1 Improved implementation of the existing Articles is the key to enhanced effectiveness of the CPA

Major changes in the global ACP-EU context have given rise to concerns over the declining importance of the CPA and its survival post-2020. EPA negotiations have put increasing pressure on the cohesion, response capacity, and indeed unity of the ACP Group. New actors, such as the African Union, are becoming preferred dialogue partners of the European Union, predominately seen through the new Joint Africa-EU Strategy signed in Lisbon in December 2007. The growing trends towards regionalisation and the EU's decision to devise separate regional strategies towards the Caribbean, Pacific and Africa regions will undoubtedly influence the Cotonou revision and the EU's future relations towards the ACP Group. Thus, the upcoming Cotonou revision will almost certainly prompt some institutional changes in the ACP-EU relations.

Yet we should also recognise that due to lengthy ratification processes, any changes emerging from the 2010 revision are likely to only be implemented several years after the formal revision is completed. So the revision itself is not an ideal quick response mechanism to any immediate problems and efforts to improve implementation will have a greater impact on the effectiveness of the CPA during its remaining ten years.

Equally however and particularly with institutional changes that take time to put in place, the 2010 revision can also be seen as an opportunity to start preparing the ground for the post 2020 era and the institutions that the ACP member states, and indeed the EU, may wish to see in place to take their longstanding relations further and beyond Cotonou. 2010 may therefore be a good moment to start setting the foundations for the institutions for future cooperation.

4.2 Roles and responsibility for regional level institutions – do they need a formal place in the CPA?

The debate over the past few months suggests a need to rethink the roles and responsibilities for institutions at the regional level and possibly use the 2010 CPA revision to provide them with a formal legal basis in the Agreement. The negotiations on the Economic Partnership Agreement (EPAs) bring new perspectives to this question. Thus, it is important to explore how the debate around the EPAs will be reflected in the next revision if not all ACP countries will sign them? New EPA institutions might easily duplicate the ACP-EU framework which is already heavy⁴. There is therefore a clear need in the 2010 revision for a proper articulation to be worked out between EPA institutions and the ACP-EU institutional framework

4.3 What place for the African Union in the CPA?

With the signature of the Joint Africa-EU Strategy at the Lisbon Summit in 2007, it seems the African Union currently receives more attention from the EU than the ACP. While

⁴ For instance, the text for the Caribbean EPA refers to a regional Joint Parliamentary Assembly.

some of the participants saw the potential recognition of the African Union in the CPA and the creation of a specific financial envelope in the EDF for pan-African programmes as desirable and realistic, others expressed reservations. The 2005 CPA revision already removed legal obstacles to the funding of the AU by revising the text of Article 58.b to allow for regional ACP bodies which also included non-ACP members. If further revisions are contemplated in 2010 and a more formal place is planned for the African Union in the CPA, then representative regional organisations in other regions (e.g. CARIFORUM, Pacific Forum) should also have similar privileges.

In any case it would be important to achieve a more explicit complementarity and better synergies between the ACP and the AU. One can not ignore the growing impact of the African Union in the international sphere and in the promotion of regional integration. Integration is also one of the primary goals of the Cotonou Agreement, but in recognising the role of the AU in this area all parties concerned should make more effort to also construct clear linkages with the ACP and its institutions.

4.4 What roles for national parliaments and the JPA in the ACP-EU cooperation?

While the Joint Parliamentary Assembly (JPA) already has a legal basis in the Cotonou Agreement, there is only a very minor reference to national parliaments in the JPA article (Article 17) in the original text and another reference on eligibility for financing (Article 58) was added in the revision of 2005. At the same time some ACP national parliaments have been starting to pay attention to the use of EDF funding by their governments and now with the controversial EPA negotiations interest in the CPA in various national parliaments has increased quite considerably. The 2010 revision could therefore be a moment to recognise this growing interest and the role national parliaments can play in promoting national debate on development plans and on monitoring cooperation, by including language to strengthen their role in the programming, review and control of the CPA. In the EU the same trend is visible, as, in addition to the European Parliament's longstanding work on the CPA, some national EU parliaments are also taking an increasing interest in the CPA and the use of the EDF. Moreover, if the Lisbon Treaty had been ratified, its provisions would have given them a formal basis to get more involved.

However, there is also a question of information and communication: governments should make sure that national parliaments are fully informed of the Cotonou Agreement and give them opportunities to be part of the 2010 revision. A better knowledge of the current issues and a stronger integration of both ACP and EU parliaments in the CPA would consolidate the partnership between the national parliaments and the governments, but also between the ACP Group and the EU, for instance through stronger participation in the JPA. Obviously an increasing role of ACP parliaments in the CPA will require major investments in capacity building of the national parliaments but some EDF funded programmes are already starting to address this issue.

4.5 How best can the ACP Secretariat respond to the growing demands?

Global challenges including regionalisation will also have an impact on the ACP Group and the role and functioning of the ACP Secretariat. The ACP Secretariat is fully aware of its current situation and has agreed on a strategic management reform plan that should make the organisation more dynamic and effective in decision-making.

Although, these reforms were welcomed by the participants, they also emphasized that the ACP Secretariat should take more initiatives, which also implies reacting to certain sensitive ACP political and economic issues as they arise. The Secretariat can only be effective, if it confronts current challenges for ACP countries in a more proactive manner.

The independent panel or ombudsman's office that was proposed to be established and which would monitor the implementation process of the CPA and highlight its unexploited potential could also be a source of support for the ACP Group and the Secretariat in helping them to urge the EU to follow up on its undertakings and commitments. In particular it would bring to light and enquire into situations where the actual practice of ACP-EU cooperation was not up to aspirations set down in the Agreement. Such an ombudsman's office or joint inspection panel could be called upon by any of the actors involved in the Cotonou Partnership but to ensure its independence it would probably be best for it to report to the Joint Parliamentary Assembly.

Box 4: Improvements to the ACP-EU institutional framework

1. Create a formal place for duly mandated regional organisations from Africa, the Caribbean and the Pacific in the Agreement (AU, CARIFORUM, Pacific Forum) and clarify synergies and complementarities between these and the ACP institutions
2. Strengthen the role of national parliaments in the programming, review and control of ACP-EU cooperation .
3. Reinforce strategic management capacities of ACP Secretariat
4. Create an independent inspection panel or ombudsman to monitor implementation of CPA

5 The way forward

This concluding section summarises the main follow-up actions identified in order to prepare the ground ahead of the 2010 revision of the CPA and builds further on the four strands of the debate around which the seminar was organised: (i) improving ACP-EU political dialogue; (ii) managing the implications of increasing differentiation in the ACP Group; (iii) improving ACP-EU aid effectiveness; and (iv) rethinking and adapting the ACP-EU institutional framework to changing circumstances. Taking together, these strands provide a comprehensive perspective on the significant challenges to be addressed during the upcoming Cotonou revision as well as broader issues that are critical to the future of the CPA.

The key and recurring observation of the informal meeting was the **gap between the formal framework and actual practice in ACP-EU cooperation**. In many areas there was a feeling that it was not so much rewordings to the Agreement that were needed, but rather that stakeholders had to make better use of the potential, or apply more strictly the provisions, of the Agreement. Thus while Cotonou was still seen as a relevant and valuable instrument there was a sense that the partnership it embodied was no longer taken as seriously as it should be. To some extent this was seen as a result of wider forces at play in global affairs, but also possibly due to a seeming decreased commitment of the partners to the cooperation and a growing disenchantment with the partnership. This would suggest that the upcoming review in 2010 needs to be seen less as a moment for simply negotiating some new language here and there in the text, but also, if the political will is there on both sides, as an opportunity for the parties to reconfirm the value of and the importance they attach to the partnership.

The proposed actions or recommendations are grouped into **four** broad priority areas to be taken up by various stakeholders and a fifth that looks specifically at what ECDPM might contribute to facilitating further the debate. In some cases suggestions are made for amendments to the text of the CPA or of new provisions that could be added. Others relate more to improvements in practice and less to rewordings, but even in these cases reflection should continue on whether some rewording might help or in some way facilitate improvements in practice.

5.1 *Improve implementation*

Foster a more reciprocal and sustained dialogue between the EU and ACP states in accordance with Article 8 of the revised Cotonou Agreement. The spirit of the partnership should be better respected to avoid that one side in the partnership imposes its priorities, for instance in programming, or unilaterally creates new “thematic envelops” (e.g. governance, water, energy facilities). In the case of the governance initiative it seems strongly indicated that better account should be taken of ‘home-grown’ governance promotion mechanisms such as the African Peer Review Mechanism (APRM).

Identify and learn from successful cases of dialogue. The lack of evidence on the successful application of Cotonou’s Article 8 challenges the parties to the Agreement to identify and learn from instances and experiences of countries that have effectively used this provision. The possibility of instituting an independent inspection mechanism within Cotonou should also be explored. This inbuilt mechanism would check and document on aid effectiveness, for instance, within the partnership, hence making dialogue processes more constructive and effective.

Reinforce governance related provisions of Cotonou, in particular Article 9 by anchoring the principles of the 2005 Paris Declaration on aid effectiveness (ownership, alignment, mutual accountability etc) more explicitly in the Agreement.

Better reflect the trends towards increased regionalisation. The CPA should be updated to explicitly reflect the establishment of the proposed new EPA institutions, as well as relevant regional organisations such as the African Union, and seek to ensure that the roles ascribed to them are well adjusted with those of the existing ACP-EU institutions. Equally it should reflect the creation of a potential new financial envelop for the AU similar to the existing RIPs managed by some regional economic communities (RECs).

5.2 More fully exploit the potential of the Agreement

Promote better awareness and understanding among stakeholders on the substance of the Cotonou agreement and relevant processes. The revision provides an opportunity to inform key stakeholders including parliaments about priorities and the issues at stake. The general perception is that the implementation of the revised 2005 Cotonou Partnership Agreement (CPA) has so far been unsatisfactory, although its text is seen as largely acceptable. This was felt to be partly due to lack of information on the implementation of Cotonou, but also to inadequate levels of dialogue and lack of systematic consultations among stakeholders.

Exploit and capitalise on the opportunities provided by the Agreement. The participants at the informal meeting observed that the full ‘potential’ of Cotonou has not been maximised. There is either a lack of knowledge about a range of ‘unexploited’ opportunities, such as Article 12 on policy coherence, or the opportunities provided have not been optimised. Article 12 for instance provides for the ACP to initiate discussions and request consultation on matters of concern to the ACP Group or its member states relating to *“the coherence of Community policies and their impact on the implementation of the Agreement”*. In general it was felt the ACP should be more proactive and assertive, as well as ensure it had an efficient decision making so as to enable it to remain ahead of the game.

Enhance communication between ACP and its member states

The ACP Group has the primary responsibility to improve the awareness of its members on how the partnership is implemented. There is need for increased levels of regular and effective interaction between the ACP Secretariat and member states. Efforts should also be made to improve communication and coordination between ACP and continental and regional organisations.

5.3 Adapt and strengthen key institutions to improve effectiveness

Ensure a stronger role for national parliaments to make the Cotonou processes more democratic and strengthen these and other key institutions to play an active role in the implementation, monitoring, review and control of the Agreement. There is a perceived tendency to equate Cotonou with National Authorising Officers (NAOs) and EU Heads of Delegations. Other players including parliaments and civil society also have a legitimate role to play in the partnership. The emergence of the Economic Partnership Agreements (EPA) has also raised concerns of institutional “duplication and overlap”. The relationships between EPA and CPA institutions should be clarified and properly

articulated to ensure cohesiveness. Review the provisions for the relevant CPA institutions (cf. in particular Annex 5 on the Trade Regime) that may need revision to take account of the EPA institutions and strengthen these.

Clarify complementarities and areas of cooperation between ACP and its regional groupings. A stronger and more effective ACP Group is needed to manage current and emerging challenges. The ACP Secretariat should engage in dialogue with regional groupings, including the African Union, to clarify areas of common interest and complementarities and where (and how) to build appropriate synergies. This action is particularly required to prepare the future of the ACP beyond the 2010 CPA revision. One key question relates to continued relevance or “value added” of the ACP *vis à vis* the Africa-EU Joint Strategy.

Explore the potential for establishing a mechanism to strengthen enforcement in Cotonou to help ensure that agreements reached are followed through and commitments fulfilled. This was seen partly as an accountability mechanism to reinforce monitoring and review and partly as a way of at least partially correcting the balance in what is often seen as an unbalanced partnership. The mechanism might take the form of an ombudsman type service as exists in the European institutions where it is linked to the European Parliament. Alternatively it might be an independent inspection panel along the lines of those in the World Bank or the African Development Bank. As well as being independent the mechanism would clearly need to be a joint ACP-EU mechanism and it would have to report to one or more of the existing ACP-EU institutions; probably the Joint Parliamentary Assembly and the Joint Council of Ministers. The parties to the Agreement and the joint institutions would be able to call on it to investigate issues, but it would also be valuable to allow other recognised stakeholders, such as civil society, local authorities or national parliament’s access to its services

5.4 Financing

There are a number of issues related to financing. At a general level there appears to be a fairly widespread need to improve the *joint* nature of programming decisions so that the funds are really used in ways that are a priority for the ACP just as much as for the EU. In other words the principles of ownership and alignment need to be more systematically applied in practice. More specifically there is need to follow-up more closely on how financial allocations particularly in the facilities funded from the intra-ACP envelope are handled; once funds are allocated to these facilities what are the accountability mechanisms? Other issues that will need further reflection include the financing of the Joint Africa-EU Strategy and the institutional development of the AU. The question of the budgetisation of the EDF will also be back on the table at the end of the 10th EDF in 2013. The period covered by the succeeding EDFs is no longer a regular 5 year cycle, so it is not clear what the period for the following EDF will be.

5.5 The role of ECDPM

The unique challenges faced by the ACP-EU partnership place increased demands on ECDPM to provide the needed support within its capacity building mandate and recognized role as an independent facilitator of dialogue. Specifically, the ECDPM was requested to support the implementation of the above follow-up actions by:

- Facilitating dialogue between the ACP Group and new EU member states in particular. It is believed that improved knowledge and experiences of each other would engender better cooperation between the enlarged EU and the ACP;
- Addressing the capacity needs of national parliaments regarding the implementation of Cotonou, capitalising on previous experience of ECDPM in this area
- Assisting the partners to identify the “unexploited provisions” of the CPA and how their use may help improve cooperation;
- Assisting stakeholders to identify and document successful cases/applications of Article 8 as an update to the ECDPM discussion papers on Article 96 from August 2005;
- Assisting with the preparations of the debate and decision-making on EDF budgetisation that is likely to re-emerge on the agenda in 2013;
- Conducting relevant studies and promote informal dialogue aimed at informing debates about the upcoming 2010 revision and future of ACP and ACP-EU cooperation;
- Assisting a process that should lead to defining the best complementarity and role division between ACP, AU and the RECs;
- Assisting the Caribbean and the Pacific with the development of a coherent strategic vision on their future relationship with the EU;
- Supporting further reflection on a possible independent inspection mechanism for the implementation of the CPA.

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Annex B: Suggestions for further reading

A selection of recent publications by ECDPM related to the Cotonou Revision and the topics covered in this Report follows.

General publications on the ACP-EU partnership

Laporte, G., (2007) '*The Cotonou Partnership Agreement: What role in a changing world? Reflections on the future of ACP-EU relations*', Maastricht: ECDPM Policy Management Report 13. www.ecdpm.org/pmr13

This report aims to stimulate a debate on the CPA and the future orientation of ACP-EU relations. It is based on a multi-stakeholder seminar organised by the ECDPM on 18-19 December 2006 on the occasion of its 20th Anniversary, and on recent ongoing debates and independent reflections in both the EU and the ACP.

Mackie, J., Erlandsson, S., Jerosch, F., Koeb, E., & Pettitt, A. (2008). *Coherence and effectiveness: Challenges for ACP-EU relations in 2008*. Maastricht: ECDPM InBrief 20. www.ecdpm.org/inbrief20

This publication identifies some of the main debates that can be expected in 2008 and sketches the backdrop against which these might unfold. The aim is not so much to predict outcomes, but to situate and frame the EU debates on development cooperation so as to enable as wide a group of stakeholders as possible to follow and participate in them. Describing the EU's own internal developments, the short paper provides a useful backdrop to the upcoming revision.

Economic and Trade Cooperation

Bilal, S., (2007) '*Concluding EPA Negotiations: Legal and institutional issues*'. Maastricht: ECDPM Policy Management Report 12. www.ecdpm.org/pmr12

This study reviews the legal commitments and institutional arrangements necessary for the conclusion of the EPA negotiations and their application. It also considers the legal and institutional consequences of the failure by an ACP country or EPA regional grouping to sign an EPA by the end of 2007. The publication gives a detailed analysis of selected provisions on trade in the agreement, including on their translation into practice.

Bilal, S., Jerosch, F. Keijzer, N., Loquai, C and F. Rampa (2007) '*From Legal Commitments to Practice: Monitoring Economic Partnership Agreements*' Maastricht: ECDPM Discussion Paper 79. www.ecdpm.org/dp79

In collaboration with the German Development Institute (DIE), ECDPM conducted this study to inform the debate on how best to monitor the EPAs. The study makes specific recommendations on how various options for monitoring EPAs could be included in their texts and subsequently operationalised. This Discussion Paper goes beyond the study by describing and visualising some of the key options in greater detail, and by suggesting a possible road map for establishing and implementing a process for monitoring EPAs. All documents and additional information on this project are available at www.ecdpm.org/trade/epamonitoring.

Stevens, C., Meyn, M., Kennan, J. (ODI) and Bilal, S., Braun-Munzinger, C., Jerosch, F., Makhan, D. and Rampa, F. (ECDPM) (2008) *'The new EPAs: comparative analysis of their content and the challenges for 2008'* Maastricht: ECDPM Policy Management Report 14. www.ecdpm.org/pmr14

This report provides a comprehensive analysis of the trade regimes for Africa that replaced the Cotonou Partnership Agreement (CPA) on 1 January 2008, the negotiations that remain to be completed and the challenges facing Africa in implementation, some of which require support from Europe. Part A provides an analysis of the liberalisation that African states have agreed to undertake in relation to imports from the EU and vice versa and key features of the main texts of the interim EPAs. Part B reviews the process that culminated in the initialling of interim EPAs by some ACP states so as to learn lessons from this process, reviews the future options for both current signatories and non-signatories and assesses the aid for trade (AfT) modalities.

Political dialogue

Mackie, J. and Zinke, J. (2005) *'When Agreement Breaks Down, What Next? The Cotonou Agreement's Article 96 Consultation Procedure'*. Maastricht: ECDPM Discussion Paper 64A. www.ecdpm.org/dp64a

This discussion paper is intended as a basic introduction to Article 96 of the CPA. It looks at the content and meaning of the article, as well as the consultation procedures for which the article provides when one of the signatory parties feels that the Agreement's essential elements have been breached. It is also an introductory text for a series of ECDPM papers written by different authors on the difficult questions raised by the use of Article 96 (www.ecdpm.org/article96).

Reform of the EU and joint institutions

Frederiksen, J., and Baser, H., (2004) *'Better aid delivery, or deconcentration of bureaucracy? A snapshot of the EC's devolution process'*, Maastricht: ECDPM InBrief 10. www.ecdpm.org/inbrief10

This InBrief takes stock of the devolution process within the European Commission. It looks into trends and experiences gained by EC delegations, EC headquarters and partners in third countries. Its aim is not to exhaustively assess or evaluate the devolution process but rather to present a snapshot of progress and raise issues more than present definite recommendations.

Koeb, E. (2008) *'A more political EU external action Implications of the Treaty of Lisbon for the EU's relations with developing countries'* Maastricht: ECDPM InBrief 21. www.ecdpm.org/inbrief21

This publication gives an overview of the innovations in the Lisbon Treaty which, directly or indirectly, are likely to affect the EU's relations with developing countries, including the ACP. It examines the issues affecting the future use of development cooperation in the context of the EU's wider external action and Common Foreign and Security Policy (CFSP). Although Irish voters have rejected the Lisbon Treaty in a referendum, and ratification is delayed in some other member states, it can be expected that the Treaty will play a role in the next CPA revision.

Mackie, J. Frederiksen, J and C. Rossini, (2004) *'Improving ACP-EU Cooperation Is 'budgetising' the EDF the answer?'* Maastricht: ECDPM Discussion Paper 51.

www.ecdpm.org/dp51

This paper focuses on the last debate on the budgetisation of the EDF by looking at options for improving ACP-EU cooperation in the light of the political context in the run-up to the first revision of the Cotonou. The paper summarises the EC's 2004 proposal for change and the different views and concerns raised by the actors involved – ACP countries, members of the European Parliament, EU member states, Commission officials and NGOs. The paper then explores the grounds for solving existing problems based on the priorities and concerns voiced by the various actors. Finally, it outlines different options to improve ACP-EU cooperation. Some of these relate to ways in which the EDF might be incorporated into the EU budget; others offer means to tackle stakeholders' concerns about the effectiveness, efficiency and democratic legitimacy of the EDF without the budgetisation solution.

ACP-EU development effectiveness

Corre, G. et al (2007) *'Whither EC Aid? From accountancy to accountability: towards a new approach for the assessment of development cooperation. Initial Discussion Note'* Maastricht and Brussels: ECDPM and ActionAid. <http://weca-ecaaid.eu>

This paper is based on an analysis of interviews with around 30 decision-makers, practitioners and experts from both Europe and developing countries, as well as a review of relevant literature. The focus of the study is on the European Commission as a donor, policy maker and broker in European development cooperation. The paper aims to improve analysis and common understanding of the challenges in improving EC aid. In addition to this discussion note, a wealth of information on EC development cooperation is available on the project website, including three information briefs that have been developed by the project, and which focus on budget support, the Lisbon Treaty, and division of labour: <http://weca-ecaaid.eu>

ECDPM (2007) *'Evaluating Co-ordination, Complementarity and Coherence in EU development policy: a synthesis.'* Studies in European Development Co-operation Evaluation 8' Amsterdam: Aksant Academic Publishers. www.three-cs.net

In 2004, the group of Heads of the EU Member States' development cooperation evaluation services and the European Commission (EUHES) initiated a series of six joint evaluations to assess the role played by the Maastricht Treaty precepts of coordination, complementarity and coherence in the development cooperation policies and operations of the European Commission and the EU Member States. Focusing on a wide variety of topics and issues, the evaluations determined to what extent the 3Cs have been applied in practice and with what impact. This synthesis paper was drawn up by the ECDPM on invitation by the EUHES, and sets out the main policy conclusions from this joint evaluation effort.

ECDPM, ICEI and Particip GMBH (2007) *'Evaluation Study on the EU Institutions & member States' mechanisms for Promoting Policy Coherence for Development'*. Studies in European Development Co-operation Evaluation 7' Amsterdam: Aksant Academic Publishers

This evaluation analyses and assesses mechanisms for promoting intra-governmental coherence that have been introduced in the administrations of the Members States and the European institutions since the late 1990s, and aims: (i) to judge their relevance and effectiveness, as well as their efficiency, impact and sustainability within their specific context, (ii) to formulate proposals to improve the

relevance and effectiveness of the mechanisms analysed and (iii) to enable politicians and officials in member states and European institutions to learn and apply lessons from experience about mechanisms for policy coherence for development.

Frederiksen, J. (2003). *'Mid-Term Reviews: Performance-based partnerships in ACP-EU cooperation'* Maastricht : ECDPM In Brief No. 5. www.ecdpm.org/inbrief5

This paper looks at issues and challenges involved in preparing and implementing the mid-term reviews. Aimed primarily at ACP and EU officials and stakeholders, it is meant as a first input to the rapidly evolving discussions about the mid-term reviews. Building primarily on past research, the paper strives to increase awareness of the mid-term reviews, while raising issues and outlining some of the challenges ahead. It begins by sketching the legal framework guiding the mid-term reviews. It then presents the main actors, levels and phases of the reviews. The core issues and challenges related to the different levels and phases are then considered. The final sections of the paper recap on the main issues by posing key questions and providing some first elements of a response.

The European Centre for Development Policy Management (ECDPM) aims to improve international cooperation between Europe and countries in Africa, the Caribbean, and the Pacific.

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ISSN 1571-7569

The ECDPM acknowledges the support it receives for this publication from the Ministries of Foreign Affairs in Finland, Luxemburg, the Netherlands and Sweden, the Directorate-General for Development Cooperation in Belgium, Irish Aid, the Swiss Agency for Development and Cooperation, the Instituto Português de Apoio ao Desenvolvimento in Portugal, and the Department for International Development in the United Kingdom.