Improving ACP-EU Cooperation

Is 'budgetising' the EDF the answer?

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Table of contents

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Executive Summary

The debate about whether to incorporate the European Development Fund (EDF) into the EU budget has resurfaced, this time in a new and fast-changing political context. The Convention on the Future of the European Union, the upcoming enlargement of the Union, negotiations on the next Financial Perspectives (2007–13) and the forthcoming possibility to amend the Cotonou Partnership Agreement are all events that open windows to look at ACP-EU cooperation in a new light. Yet though the political context may be changing, it is not long ago since the "Green Paper" debated the future of Lomé – probably the most far-reaching review of ACP-EU cooperation ever. The evolving political context means that ACP-EU cooperation has entered uncertain times, though equally it implies that any decision on budgetisation must be taken against a rapidly-changing backdrop.

Perspectives on budgetisation

The European Commission launched the current debate with a written proposal to the European Parliament and Council. According to the Commission, EDF budgetisation would contribute to a number of goals:

- countering perceptions of "political marginalisation" of the ACP;
- strengthening the democratic legitimacy of cooperation with the ACP;
- improving the effectiveness of EU aid to ACP countries;
- permitting a faster response to evolving needs and priorities;
- enhancing efficiency and harmonisation of procedures and practices and reducing transaction costs of development aid.

Main stakeholders in the budgetisation debate are the ACP countries, the European Parliament, the EU member states, the European Court of Auditors and NGOs. The European Parliament, a traditional supporter of budgetisation, remains firm in its view that if the EDF were budgetised it could protect the level of funding available for the ACP while increasing democratic legitimacy and control of ACP development expenditures. The Court of Auditors has in past debate been favourable towards keeping a separate EDF. Until such a time as the Court revisits the issue its position can be assumed to remain the same. However, the Court of Auditors has raised concerns about the negative impact of delayed ratification by EU member states on effective and efficient implementation of the EDF. EU member states are divided, but at least one key supporter of the EDF has shifted its position to the budgetisation camp. The new member states are, by and large, undecided, though they are not *unsympathetic* to the arguments advanced by the Commission, particularly the need for increased coherence of EU external actions. Many EU member states have internal discussions between different ministries and different positions sometimes exist in the Finance Ministries, the Foreign Ministries and/or the national development agencies. Opinions are also divided on the ACP side, with ACP representatives seeing both disadvantages and advantages in budgetisation. Primarily, ACP officials are concerned with the security of future funding and that any adaptation of existing EU budgetary procedures could compromise 40 years of partnership and joint management. NGOs have welcomed the idea of budgetisation, but point out that a number of conditions have to be fulfilled if budgetisation is to constitute a step forward for the ACP-EU partnership.

Categories of concerns

At this early stage of the debate, there is a striking similarity of concerns raised by stakeholders regarding the management and future of the EDF. These can be grouped into four categories: (i) democratic control and transparency, (ii) aid delivery and quality of assistance, (iii) security of aid and (iv) coherence of EU external relations.

Regarding *democratic control and transparency*, the EDF is the only EU financial instrument that is not subject to the full democratic control of the European Parliament. The Parliament does not currently adopt the appropriations for the EDF, as these are contributed voluntarily by member states outside of the budget. Budgetisation of the EDF would resolve this anomaly at a stroke and ensure parliamentary oversight over the whole financial process. Some ACP countries would welcome an enhanced role for the European Parliament because the Parliament, they feel, is more accessible and "development sensitive" than other EU institutions. However, others point to the unpredictable nature of debate within the Parliament.

With regard to *efficiency and quality of aid*, critics often perceive EDF disbursements as being slow, though the Commission's own figures show EDF disbursement speed to be similar to or even better than EU development programmes administered under the EU budget. Further, the traditional and much-hailed ACP-EU partnership mode of cooperation, encompassing joint management of financial resources, would be difficult to preserve if the EDF were submitted to existing EU financial regulations and budgetary procedures. On the Commission's side, EU management and administrative procedures could be streamlined by budgetisation – or equally, by its converse, "EDFisation" of development cooperation currently funded under the EU budget. One set of rules, procedures and structures could then be created

for all EU-funded assistance to developing countries. Such a move could contribute to improved aid delivery.

Security of assistance to the ACP is another main concern. The EDF is based upon a "spending guarantee", which provides some predictability of funding but also causes some management problems because of difficulties with the closure of programmes and reprogramming of resources. If the EDF were budgetised, the ACP chapter would be by far the largest under Heading 4 (external actions) of the budget. As such, there is a danger that it would be raided when there is a shortfall of funds elsewhere. Questions also arise about how well ACP interests would be served in the tough annual budget debate in the European Parliament. Indeed, the annual EU budget cycle does not rhyme well with the multi-annual nature of development cooperation programmes. Whereas Commission officials argue the need for increased flexibility, ACP countries assert that a new balance between predictability and flexibility of aid was already established during negotiation of the Cotonou Agreement and the 9th EDF. If the EDF is budgetised, they fear a new situation developing with too much flexibility and too little predictability. For some, the continuing drive for reform is another example of a fast-moving European agenda that does not correlate well with the slower pace of development in most ACP countries.

Finally, enhancing *coherence among EU external actions* is a main aim in the current negotiations on the new European constitutional treaty. If the EDF is budgetised, it is argued that ACP cooperation will be drawn into a closer relationship with development initiatives in other regions and with broader EU foreign policy. Yet this development might not change much in practice since Cotonou is already based on three interrelated dimensions: development cooperation, trade and political dialogue.

Preliminary options

There is the obvious Hamlet's choice "to budgetise or not to budgetise". But the choice need not be seen in such absolute terms. There are different ways of budgetising, and even if the choice is made not to budgetise measures can be taken to respond to existing concerns regarding efficiency and effectiveness. Without complicating the choice unduly, three basic options can be considered:

- keeping the EDF separate;
- creating an ACP budget chapter under Heading 4 (external actions) of the EU budget as suggested in the Commission communication;
- making innovative and flexible use of the Financial Perspectives, probably through the creation of a new heading or sub-heading for development cooperation.

The first option, keeping the EDF separate, could be considered. There are strong arguments for allowing the flexibility built into the Cotonou Partnership Agreement and its accountability and revision provisions to be used before further changes are undertaken. Both the Cotonou Agreement and the 9th EDF have introduced new elements into ACP-EU cooperation, and the performance of Cotonou is yet to be seen. Most accountability and revision provisions will be used for the first time in 2004. However, these measures cannot in themselves address inefficiencies linked to delays caused by the EU ratification process, the parallel structures in the European Commission and the need for more coherence among the Union's external actions.

The second option, creating an ACP budget chapter, as suggested in the Commission communication, would have positive impacts mainly on the EU side, enabling the Commission to establish a single financial and administrative system for all its development cooperation and increase the European Parliaments power. At the same time, it might put at risk the qualitative achievements of the ACP-EU relationship by undermining predictability of funding and the long-held principle of partnership.

Adding a separate heading or sub-heading for development cooperation in the Financial Perspectives is probably the most promising option. It would clear a path for achieving many of the objectives set out by the Commission while responding to the majority of stakeholder concerns. If a political compromise could be reached to create the required instruments and rules to implement this option, then a major increase in efficiency and effectiveness of both ACP-EU cooperation and EU budget-funded external assistance to developing countries could be accomplished. Such a scenario would have to be hinged on close consultation with ACP leaders and would have to maintain, or even improve, the "qualitative achievements" of past ACP-EU cooperation. Thus, this scenario would have to address the key concerns of maintaining the security of ACP development funds and preserving multi-annuality and joint, but differentiated, management of external assistance.

All possibilities open

The debate is far from over. In the interviews conducted in the writing of this paper it became clear that a variety of options can be considered, providing they are voiced, explored and debated. In the words of one Commission official, 'Everything is possible!' In the current climate of change in the European Union, with the Inter-Governmental Conference in progress, enlargement becoming a reality, a new set of Financial Perspectives on the horizon, a new legislature of Parliament and a new College of Commissioners on the way, the openings are there. All stakeholders should actively seek the best way forward to enhance ACP-EU cooperation.

1 Introduction

The debate about whether to incorporate the European Development Fund (EDF) into the EU budget has resurfaced, this time in a new and fast-changing political context. The Convention on the Future of the European Union, the upcoming enlargement of the Union, negotiations on the next Financial Perspectives (2007–13) and the forthcoming possibility to amend the Cotonou Partnership Agreement are all events that open windows to look at ACP-EU cooperation in a new light. Yet though the political context may be changing, it is only five years since the "Green Paper" debate on the future of Lomé, probably the most far-reaching review of ACP-EU cooperation ever. This raises the question of what is now so fundamentally different as to prompt the budgetisation discussion being reopened so soon.

The European Commission launched the current debate about EDF budgetisation with a written communication which proposes that EU development assistance to the ACP be fully incorporated into the annual EU budget and existing budgetary procedures. Budgetisation, the Commission argues, would counter the risk of political marginalisation of the ACP and improve the effectiveness and efficiency of EU external assistance.

While the Commission's objectives are at least partly shared by the different actors, those involved do not always concur on what constitutes the main problems and, especially, how to solve them. ACP countries, EU member states, European parliamentarians, officials of the European Commission and non-state actors all have different perceptions of the strengths and weaknesses of current ACP-EU cooperation. Convergence and divergence of views exist both within and between groups of actors.

The evolving political context and important events upcoming in the timeline of the European Union and in the Cotonou Agreement, present a unique opportunity for effecting changes to improve ACP-EU cooperation. Many of these changes, however, can be implemented without fully incorporating the multi-annual, inter-governmental EDF into the annual EU budget. If the path of budgetisation is chosen, there are a number of options for carrying this out. Some courses of action offer more scope than others to bridge the gaps between views held by different stakeholders. Of course, the ultimate goal of any changes to the current EDF framework should be to enhance the achievements of the Cotonou Agreement, which is known as a forerunner in EU development cooperation. Many innovative and qualitative elements of EU development cooperation have emerged from ACP-EU cooperation, so even if effectiveness and efficiency can still be improved this should be done in a way that does not marginalise ACP-EU cooperation from other European development assistance initiatives and other priorities for EU external actions.

This paper seeks to provoke and enrich the debate on budgetisation of the EDF by looking at options for improving ACP-EU cooperation in light of the current political context, the Cotonou Agreement and the Commission's proposal for change. The paper begins by looking at the timing of the Commission's reopening of the debate. It then summarises the 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 – based on interviews and desk research carried out by the authors. The paper then explores the grounds for problem solving based on the priorities and concerns voiced by the various actors. Finally, it outlines several options to improve ACP-EU cooperation. Some of these relate to ways in which the EDF could be incorporated into the EU budget. Other options offer means to tackle stakeholders' concerns about the effectiveness, efficiency and democratic legitimacy of the EDF without the budgetisation solution.

2 An old debate in a new political framework

Budgetisation of the EDF was last discussed during the Green Paper debate on the future of Lomé and in the negotiations to prepare the 9th EDF. At that time, the question of budgetisation was postponed.[1] Now, with the formal end of the financial protocol for the 9th EDF in sight, the debate is resurfacing. The current discussion, however, must be interpreted in light of the recent past and the upcoming political and financial agenda, which are likely to have substantial effects on EU development cooperation.

2.1 The Inter-Governmental Conference

A major objective of the Inter-Governmental Conference (IGC),[2] which is currently negotiating the future constitutional treaty of the European Union, is to increase coherence among EU external actions, especially between the external policies of the Commission and the Union's Common Foreign and Security Policy (CFSP). The ongoing debate raises both opportunities and risks for EU development cooperation. Coherence in external actions should increase the effectiveness of cooperation, but might also mean that resources budgeted for development could be used to finance other EU external policies.

Within this debate is the question of whether to put the EDF within the EU budget. The Convention on the Future of Europe has recommended budgetisation of the EDF.[3]

It is hard to predict the impact, but depending on the results of the IGC, budgetisation of the EDF may mean that funds for the ACP will become more closely related to the other foreign policy objectives of the Union than they were hitherto. On the other hand, Cotonou already includes an important political dimension and CFSP initiatives are already closely coordinated with Cotonou. Thus a closer financial link between the CFSP and the Cotonou through the EU budget would not necessarily lead to drastic changes in practice. Many ACP countries might benefit from more coherence in European external actions.

2.2 EU enlargement

From 2004, the new EU member states will join the Cotonou Agreement via an automatic clause in the accession treaty. This expansion of the Union poses a number of opportunities and challenges for EU development cooperation and the ACP-EU partnership (Box 1). The impact of enlargement is expected to be felt on both the policy and financial fronts.

A number of the new member-state countries already have small external assistance programmes, leading them to be termed "emerging donors". This trend will be confirmed once they join the European Union and start contributing to the budget, where a percentage of their total contribution (4.68%) will automatically take the form of development assistance.[4] However, they will have trouble meeting the commitments agreed by the current member states at Monterrey. Moreover, the cost of enlargement may strain the EU budget, reducing the funds available for development cooperation. Such pressure could also affect the successor to the 9th EDF, to which the new member states will be expected to contribute.

Opinions vary on whether the new member states will want to play an active role in ACP-EU cooperation. Some fear that if the EDF is kept separate, it will be difficult to impose on the newcomers a level of participation similar to their contribution to the EU budget. Others argue that the risk is greater that the newcomers will exert downward pressure on an ACP chapter within a budget to which they contribute. If the EDF were kept outside the budget, member states that are keen on cooperation with the ACP could voluntarily increase their contributions to levels higher than would be required within the budget. Of course, this begs the question of which EU member states would increase their financial contributions to a 10th EDF in the current economic and political context.

EU enlargement thus introduces uncertainty in the estimation of future levels of financing for EU

1 Agenda 2000 delayed the debate to 2005 but in 1999 the Commission indicated that it intended 'to transmit to the Council before 2003, after an analysis of the present system, a communication assessing the advantages and drawbacks of the budgetisation of the EDF' see footnote 2 in COM(590) of 14.12.1999.

2 For further analysis of forthcoming events that are likely to impact EU development cooperation, see '*Ensuring that Development Cooperation Matters in the New Europe*', ECDPM, 2003.

3 Final report of Working Group VII on External Action, Brussels, 16 December 2002, p. 8.

4 *Follow-up to the International Conference on Financing for Development* (Monterrey, 2002). Monitoring the Barcelona Commitments. Staff Working Documents, European Commission. SEC (2003) 569, Brussels, 15.5.2003.

development cooperation. More member states means more contributors to EU development assistance; but it also means higher costs for the EU budget and thus greater competition for funds. A budgetised EDF would be directly subject to these trends and pressures. Nonetheless, since the EDF and EU budget resources originate from the same source – the member states – it is unlikely that a separate EDF would be any better protected than budgetised ACP assistance. A main difference between incorporating the EDF within the budget or leaving it outside is the budgetary cycle: the EDF is negotiated every five years, whereas the EU budget is set annually within the framework of the Financial Perspectives.

Box 1: Opportunities and challenges of enlargement for development cooperation

Opportunities:

- Governments and NGOs of some of the new member states have unique and particularly relevant expertise in difficult geographical areas (like Chechnya or Afghanistan).
- New member states' experience of the "transition process" presents an opportunity to enrich EU development policy.
- Because of the absence of historical links with ACP countries, accession of the 10 new states may lead to a more "neutral" approach to cooperation.
- Enlargement will increase the number of votes available to EU member states in international organisations (e.g., the United Nations and the World Bank).

Challenges:

- Government commitment to development cooperation is in general rather low and institutional capacities insufficient in many of the new member states.
- Enlargement could generate momentum for a shift of resources away from the African continent because of an increased focus on regional stability and global security.
- New member states are likely to reinforce a focus on the Union's eastern and southern neighbours.
- There is a risk of reduced poverty focus and a decline in aid to the less developed countries.
- More member states with a greater variety of views may reduce the ability of the European Union to reach common positions on development cooperation.

Source: Study commissioned by the European Commission on the consequences of enlargement for development policy. Stefano Migliorisi. September 2003, IDC.

2.3 Negotiation of the next Financial Perspectives

Upcoming discussions on EDF budgetisation will occur in parallel with another strategic debate: negotiation of the next EU Financial Perspectives. The Perspectives provides the EU's budgetary structure for the next five to seven years. The Commission will launch the negotiations early in 2004, and the process should be completed by 2006.

The next Financial Perspectives will set the levels of appropriations for each heading and sub-heading of the EU budget for 2007–13 and the degree of permitted annual variation. Thus, from 2007 the level of funds allocated to external actions (Heading 4) becomes a closed system for the next seven years. Any increase in need would have to be found by savings in other aspects within the same heading or sub-heading. The Perspectives, therefore, defines the relative priority that the Union attaches to its major policy areas, such as external assistance (Box 2).

In terms of integrating ACP-EU cooperation into the EU budgetary structure, the negotiation of the next Financial Perspectives is an opportune moment to ensure that the specific needs of the EDF are fully safeguarded throughout the next Financial Perspectives period. That said, there may be other possibilities to budgetise at a later stage or even during a Financial Perspectives period.

So a number of questions arise: Is it the right time to start the discussion on budgetisation of the EDF since there is as yet no clear picture of the main orientations and ceilings for the next EU multi-annual financial framework? Will it be possible during negotiation of the Financial Perspectives to make specific procedures and rules for all EU development assistance? What will be the scale of Heading 4 (external actions) in the new Financial Perspectives? Will it have sufficient scope for continued funding of ACP cooperation, or will it be so tight that the ACP would be better served by continuing to have a separate EDF?

2.4 Opportunities in the Cotonou calendar

Within the calendar of ACP-EU cooperation, the proposal on EDF budgetisation also comes at a strategic point in the life of the Cotonou Partnership Agreement. A number of important moments of review and potential revision to agreements are scheduled to take place in 2004. These forthcoming

Box 2: The EU Financial Perspectives

The EU Financial Perspectives sets limits on the growth of EU budget expenditure by category of commitment appropriations (at the level of headings or sub-headings). It also sets ceilings for total expenditure. The current Perspectives (2000–06) comprises seven headings, one of which covers all external actions (Heading 4) including assistance to developing countries.[5]

Each heading should be sufficiently homogenous to allow the Union's political priorities to be identified and sufficiently broad to allow reallocation of expenditure between the various programmes under the same heading or sub-heading, if required by unforeseen events. Each heading is complete in itself and covers a specific category of actions such as, for example, external relations, agriculture and internal policies. Since a budget item under one heading or sub-heading cannot be financed under another, a revision is necessary to reallocate resources among headings. For each heading, the amount established in terms of appropriations for commitments represents an annual expenditure ceiling.

Depending on the type and purpose of the appropriation, each heading is broken down into titles, chapters, articles and items.[6] The structure of the EU budget, as determined by the budgetary authority (the EU Parliament and Council), is at the level of chapters. As a rule, decisions on transfers between chapters may be made only by the budgetary authority, whereas the Commission may reallocate resources within and between articles.[7] The budgetary authority may further revise, reallocate and transfer resources between headings or sub-headings (art. 274 of the EC Treaty).

To transfer resources between chapters, the Commission presents a proposal to the budgetary authority. If the expenditure is non-compulsory (as are most resources within Heading 4), Parliament approves or rejects the transfer by absolute majority after consulting the Council. The Commission's proposals are also deemed accepted if the budgetary authority does not take a decision within six weeks.

The Financial Perspectives may be revised, providing that the own resources ceiling is not exceeded. The budgetary authority (in a communication) can add unforeseen expenditure within a margin of 0.03 per cent of total European gross national incomes. If the amount exceeds 0.03 per cent the Council's decision must be unanimous. The Commission aims to increase disbursements under the EDF from the 2000–02 average of 0.021 per cent to 0.031 per cent of EU GNI. 'This level of improved disbursements should as a minimum be targeted after budgetisation', the Commission has argued.

events and the associated legal provisions make it possible to budgetise the EDF at this time; but they also offer other opportunities for adjustments if the parties feel that changes are required to ensure successful implementation of Cotonou. Indeed the Cotonou Agreement and the 9th EDF are a far more flexible than their predecessors. Both have a variety of provisions that allow for adjustments, revisions and the redistribution of resources if required. However, it is early days yet and so far the opportunity to use most of these provisions has not yet arisen. Most have therefore not yet been employed.

Possible revision of the Cotonou Agreement

The Cotonou Agreement's overriding "flexibility provision" is the revision clause,[8] which offers the parties the possibility to revise the text of the Agreement every five years when the associated Financial Protocol (Annex I) comes to an end. Either the Commission and the member states, on the one hand, or the ACP states on the other, then have the possibility to notify the other party of any review of the provisions they desire to make with a view to a possible amendment of the Agreement. The upcoming deadline for this notification is 1 March 2004. It is this clause that opens the legal door to proposing the budgetisation of the EDF at this stage.

Revision of the protocols and annexes

The Cotonou Agreement[9] also offers a possibility **to revise the protocols and annexes at any time.** These can be reviewed by the Council of Ministers on the basis of a recommendation from the ACP-EU Development Finance Cooperation Committee. Many of the relevant financing provisions can be found in the 9th EDF Financial Protocol and in Annex IV, which contains requirements for joint management and ownership. Given recent criticism of the EDF system

5 Only the EDF is presently outside the EU budget and thus not under the authority of the European Parliament, which nevertheless is asked to give discharge (which is a kind of stamp of accountability) on the use of its resources.

6 The introduction of activity-based budgeting will change the nomenclature, but the basic procedures and rules of reallocation of resources (which can be found in the financial regulations applicable to the EU budget and the Inter-Institutional Agreement) will not change.

7 *EU Public Finance*, third edition, European Communities, 2002.

8 Article 95 of the Cotonou Agreement.

9 Art 100 of the Cotonou Agreement.

it is reasonable to assume that, if a review or amendments are to occur, the focus will be on introducing more flexibility in the financial cooperation system. In other words, the tendency will be to seek ways to simplify the rules and procedures of the EDF and to accelerate disbursement of aid assistance. The implementation role of the national authorising officers is also likely to be re-examined.

Mid-term reviews

Another flexibility provision in the Cotonou Agreement is the mid-term reviews of the intervention strategies.[10] This is a review of performance mid-way through the country strategies and National Indicative Programmes (CSPs and NIPs). The mid-term review will be put into practice for the first time in 2004. The local part of the reviews will be carried out in early 2004 and then, in the latter half of the year, decisions on future resource allocations to each of the ACP countries will be reviewed and possibly revised up or down on the basis of their performance.

Global review of EDF resources

Later in 2004, the EU member states will conduct a global review of resources utilised under the EDF. On the basis of this they will decide whether to release the 1 billion euro conditional fund.[11] At the same time, the member states will decide on a date after which no further resources can be committed from the 9th EDF.[12] Moreover, legally speaking, the 13.5 billion euros of the 9th EDF is not a fixed amount. As a new element in ACP-EU cooperation, the Financial Protocol (Annex I) refers to the amount available as 'up to'. This introduces a certain uncertainty about how much money will be spent under the 9th EDF.

Given that the mid-term review provides the basis for a potential reallocation of resources for each ACP country, and with the global review of financial requirements upcoming, a potentially powerful instrument for change is imminent. This, coupled with the possibility to revise the protocol and annexes, gives the Commission and the ACP countries considerable scope to adjust the financing of ACP-EU cooperation if they feel this is required. Nonetheless, even before these opportunities for adjustments have taken place the Commission is proposing an even greater change to the financing of ACP-EU cooperation: budgetisation of the EDF. Aside from the fact that the legal opportunity to budgetise occurs in March 2004, why is the Commission making this formal proposal now?

2.5 Seizing a good opportunity?

The evolving political context has created uncertain times for ACP-EU cooperation. Yet it also means that the decision to budgetise must be taken against a rapidly changing backdrop which clouds the deliberations on which are the best way forward. Both the IGC and EU enlargement are likely to affect the EU budget and the external relations part of the budget in particular. The Financial Perspectives negotiations equally hold a number of major questions for budgetisation. It is clearly an opportunity, but it would also be a major challenge to safeguard the positive characteristics of the EDF through these major negotiations in which the stakes extend far beyond EU external policies.

Within the boundaries of the Cotonou Agreement the coming year is also a point of major review and possible change, since various flexibility provisions will come into play (Box 3 presents some forthcoming events). This inevitably raises the question of whether these provisions are adequate for making any adjustments necessary at this stage and whether the major change that EDF budgetisation would represent is really necessary so early in the life of this 20-year agreement.

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10 For further information see ECDPM In Brief No. 5, '*Mid-Term Reviews: Performance-based partnerships in ACP-EU cooperation*', 2003.

11 Declaration XVII: *EU Declaration on the Financial Protocol* and Paragraph 7 of the Financial Protocol in Annex I of the Cotonou Agreement.

12 Declaration XVIII *EU Declaration on the Financial Protocol*.

Box 3: Timeline of ACP-EU cooperation

2003

October–December: ACP discussions on EDF budgetisation (ACP Council of Ministers).

November–December: ACP-EU Development Finance Cooperation Committee; IGC final round of negotiations.

2004

January: The Commission aims to present a communication on the next Financial Perspectives setting out broad guidelines for both policy and the expenditure framework. It will include basic financing issues such as appropriations ceilings.

February: The EU member states will provide the European Commission with a mandate for review of the Cotonou Agreement and/or its annexes. This mandate may or may not be explicit about the Union's position on EDF budgetisation. The ACP-EU Joint Parliamentary Assembly in Ethiopia will discuss EDF budgetisation.

Before 1 March: The European Union or ACP states shall notify the other party of any review of the provisions they desire to make with a view to a possible amendment of the Cotonou Agreement. The other party shall have a period of two months in which to request the extension of the review to other provisions related to those that were the subject of the initial request (art. 95 of the Cotonou Agreement). Negotiations to be finalised before the end of the financial protocol in March 2005.

May: Formal enlargement of the European Union with 10 new member states; meetings of the ACP Council of Ministers and ACP-EU Council of Ministers.

Mid 2004: Second phase of the Financial Perspectives discussion. The Commission will prepare the appropriate legislative proposals covering potential policy changes for the next Financial Perspectives (2007–13). Also, at this time performance reviews will be conducted of each Country Strategy Paper and National Indicative Programme, in light of which the choice of programmes and resource allocations may be changed (Annex IV, art. 5 of the Cotonou Agreement).

June/July: ACP heads of state and government meet; election of the European Parliament and selection of the new President of the European Commission by member states.

Late 2004: Utilisation review of the realisation of commitments and disbursements undertaken by the ACP and EU.[13] This review constitutes the basis for re-evaluating the overall amount of resources and assessing the need for new resources (Annex I, art. 7 of the Cotonou Agreement). Three other aspects connected to this utilisation review are the release of the 1 billion euros of conditional money,[14] a decision on a date beyond which funds from the 9th EDF can no longer be committed and the mid-term reviews.

November: New European Commission takes office.

Late 2004/early 2005: The potential changes to the Agreement (or its annexes) as negotiated have to be approved by both the ACP and EU.

[13] § 7 Financial Protocol.

[14] Of the 13.5 billion euros of the 9th EDF, 12.5 billion euros was made available immediately. The remaining 1 billion euros is conditional on how resources are utilised (Declaration XVIII, EU Declaration on the Financial Protocol in the Cotonou Partnership Agreement).

3 The Commission's proposal for change

The Commission's recent publication of a communication[15] to the Council and Parliament proposing the integration of the EDF into the EU budget is the document that relaunched the budgetisation debate. It therefore forms a useful reference point from which stakeholders will define their positions. This section outlines the main objectives of the Commission as put forward in the communication and the ways it intends to achieve budgetisation.

3.1 Why budgetise now?

The issue of budgetisation could come up at any time, but the coincidence of the legal opportunity to

revise the Cotonou Agreement and the upcoming debate on the multi-annual financial framework for the EU budget beyond 2007 creates a strategic moment for the European Commission to resurrect this old debate. At the same time, the Commission's communication expresses a need to modernise and "normalise" the ACP-EU "special" relationship to reflect the historical changes in the European Union since the EDF was first established in 1958. Essentially, it was established as a separate fund because the European Community had no other external actions at that time.

Box 4: Aspects of ACP-EU agreements that might change if the EDF is budgetised

The main text of the Cotonou Partnership Agreement contains references to the EDF, notably in article 61, as the prime source of financing, but the use of resources from the EU budget 'where appropriate' is also given as a possibility. Legal advice would have to be sought as to whether it is possible to budgetise the EDF while avoiding changing the Cotonou Agreement itself. Precedence exist for leaving provisions in the main body of the Agreement that are no longer in use (e.g., Stabex and Sysmin).

The declaration on the financing of the EDF annexed to the EU treaty (declaration no. 12)[16] states that the EDF will remain inter-governmental. For the sake of clarity the declaration should be repealed, but legally it might not be necessary.

The financial protocol that establishes the details of the 9th EDF (the overall amount of financial assistance, period covered, use of funds, etc.) will end in March 2005. Since this protocol forms an integral part of the Cotonou Agreement, it would need to be withdrawn by both parties to the Agreement.

Annex IV of the Cotonou Agreement relates to joint management and shared responsibility for the project cycle, from programming to implementation and evaluation. The annex is an important part of the so-called "Culture of Lomé" and many of the ownership principles are rooted in its provisions. Most of the provisions might need to be revised in accordance with the financial regulations applicable to the EU budget.[17] The main issue is probably the so-called "spending guarantees" (art. 17.3) that legally guarantee ACP countries that all available resources will be used. This runs counter to the annuality of the EU budget.

The internal agreement concluded between the EU member states and the European Commission on the financing and administration of the financial protocol in the Cotonou Agreement would probably become irrelevant if the EDF is budgetised.

The financial regulations applicable to the 9th EDF which, among other provisions, set the EU rules for implementation of the EDFs would have to be withdrawn. Instead the EU budget's general financial regulations would apply. To a large extent, the 9th EDF financial regulations have already been brought into line with the general financial regulations. Thus the provisions of the two are now similar. However, preserving or improving the "qualitative elements" of the Cotonou Agreement would probably require exemptions to the existing budgetary procedures.

Changes to the Cotonou Agreement itself have to be approved through the same process as the original; that is, through ratification by all ACP and EU national parliaments and the European Parliament. The **protocols and annexes** to the Agreement can be amended by the Joint Council of Ministers on recommendation of the ACP-EU Development Finance Cooperation Committee.

In advancing its justification, the Commission refers to the growing international debate (in Monterrey and in the context of the Millennium Development Goals) on aid effectiveness and argues that budgetisation would reduce transaction costs and harmonise external assistance procedures. It would

15 European Commission, October 2003, *Towards the Full Integration of Co-operation with ACP Countries in the EU Budget*. Com (2003) 590 Final, Brussels 08.10.2003.

16 In 1988 the member states refused to budgetise, reiterating this position again at the conclusion of the Maastricht treaty (Declaration No. 12 annexed to the treaty).

17 According to article 100 of the Cotonou Partnership Agreement, Annex IV (and Annexes II, III and VI) can be revised, reviewed and amended at any time by the Council of Ministers on the basis of a recommendation from the ACP-EU Development Finance Cooperation Committee.

thereby increase the effectiveness of Europe's cooperation with ACP countries. It also makes reference to the reform agenda of the current Commission and its policy of improving financial management. Thus the Commission's communication argues:

> *Full budgetisation is expected to produce a positive change by establishing political and budgetary normality, as well as further simplification and harmonisation of procedures without putting at risk the qualitative achievements of the 45-year-long cooperation with ACP States.*

It would seem, therefore, that the timing of this proposal is primarily associated with the opportunity created by the coincidence of dates alluded to earlier. But this is complemented by a wish to meet international commitments and the desire of the current Commission to push through its reform agenda during its mandate and take steps to improve financial management wherever possible.

3.2 The Commission's objectives

In its communication the Commission lists a number of advantages that it sees in integrating the EDF into the EU budget:

- Countering the risk of political marginalisation of the ACP by moving towards normality and fully integrating the ACP into the mainstream of EU external relations. The ACP countries would thus be put on equal footing with other regions in their EU relations.
- Strengthening the legitimacy of cooperation with ACP partners by enabling the European Parliament to exert its full authority, from the authorisation of expenditures up to disbursement and review. External aid at the level of the Union would subsequently gain in transparency towards the European citizen and taxpayer.
- Improving the effectiveness of EU aid to ACP countries by increasing budgetary discipline and providing for flexible reallocation mechanisms.
- Improving disbursement rates, which despite some advances still remain short of expectations as measured against the Commission's own targets for the EDF.[18]
- Permitting faster response to evolving needs and priorities through the budgetary principle of annuality which would, for instance, enable easier and more regular redistribution of funds.
- Making funds available more rapidly than under the EDF system, which requires ratification of the financial protocol by all member states.
- Simplifying reporting and accounting requirements by having only one set of administrative rules and decision-making structures instead of two, which will reduce the administrative burden on the Commission and its delegations and in some cases for recipient countries.[19]
- Harmonisation of procedures and practices (Barcelona commitments) and reduction of transaction costs of development aid.

3.3 Achieving the objectives

Full budgetisation of the EDF is one way the Commission proposes to achieve these objectives.[20] This implies submission of the EDF to all EU budgetary procedures and rules such as the annuality of the budget and its financing from the "own resources" of the European Commission. The communication proposes various measures to replace some of the special features of the EDF:

- securing of the necessary long-term programming by the multi-annual indicative planning in the budget and in the Financial Perspectives;
- continuation of commitments to individual ACP countries on the basis of programmes prepared and approved by each of the ACP countries;
- preserving the joint management of financial resources through decentralised management procedures in the financial regulations applicable to the EU budget;
- as a minimum, maintaining the total level of aid currently provided through the EDF, while being guided by the evolution of European gross national incomes.

[18] It should be noted that the communication gives no data comparing the disbursement rates in the EDF and in the budget (further details in section 5).

[19] Some ACP countries receive a large amount of aid via EU budget lines and these ACP governments have to operate with two set of procedures.

[20] Other initiatives within the Commission's reform are harmonisation and streamlining of the budget lines, second-generation institutional support to national authorising officers and ACP governments, and de-commitment of old (dormant) projects/programmes so as to speed disbursements.

Budgetisation would not affect the global amount that the EU member states pay for assistance to the ACP. However, it would affect how these contributions are shared, since the EU budget key, based on gross national income, is different from the voluntary key agreed for each EDF. The question remains whether the EU member states that currently pay more to the EDF than would be required under the EU budget would continue to do so in a successor to the 9th EDF.

Instead of seeking to negotiate a 10th EDF, the Commission hopes to fund ACP cooperation from the EU budget as soon as the 9th EDF comes to an end in 2007. Budgetised financing of the ACP would therefore start in 2007 or 2008. Nonetheless, unspent EDF resources would require some form of transitional mechanism in order to fulfil the spending guarantees.

The Commission thus couches its arguments in fairly practical language with a strong emphasis on financial management and budgetary discipline. It presents the issue as a question of modernisation and of bringing the EDF up to date and in line with the Union's other ways of managing aid to achieve the greatest effectiveness. The Commission also argues that the "special features" of the EDF can be provided for in the normal standard procedures of the EU budget.

3.4 Widening the debate

It should be noted that the communication makes no explicit analysis of the possible impact of budgetisation on future levels of commitments and disbursements. Moreover, it is questionable whether the existing budgetary procedures can preserve the "qualitative" achievements of past ACP-EU cooperation. Other questions the communication leaves unanswered are the impact of budgetisation on the joint ACP-EU institutions, on ACP-EU political dialogue and on trade capacity building, all of which are integral elements of the Cotonou Agreement.

Having examined the Commission's objectives in budgetising the EDF and the way it intends to handle the process, we now turn to the perspectives of the other actors involved. What are their main concerns? Do some of them share the Commission's concerns and objectives? Are there major differences of opinion, or is there substantial common grounds on which a consensus might be built?

4 Stakeholders' views and concerns

In light of the timeline identifying the major upcoming events that are likely to affect future decisions on ACP-EU cooperation, we may ask what main concerns are being expressed at this stage by actors in the process. What are their different perceptions and readings of potential opportunities to solve the various problems identified? Are there shared principles?

The main stakeholders involved are the ACP countries, the European Parliament, EU member states, the European Court of Auditors and NGOs. It is interesting to note that perceptible common grounds is emerging between quite a number of these key actors concerning the problems that the EDF currently faces. The differences between and within each group appear when it comes to resolving them. To understand these viewpoints more clearly a series of confidential interviews were conducted, the main conclusions of which are outlined below.

4.1 The ACP countries

The ACP group has not yet adopted an official position, but is currently discussing the Commission's proposal on budgetisation. A number of ACP representatives stated they were not fully convinced by the arguments of the Commission. They felt the Commission had failed to be inventive and innovative and it had not provided concrete responses to their concerns.

A number of ACP officials view as positive the increased role that the European Parliament would have if the EDF were budgetised. The democratic control of the Parliament would represent an effective means to raise accountability through increased monitoring of EDF spending. Furthermore, the Parliament is expected to be more "development sensitive" than some EU member states, in particular some of the new members.

Nevertheless, ACP officials voiced concerns about the unpredictable character of the European Parliament's future role in determining priorities and budgets for cooperation with ACP countries. Debates might evolve in unexpected ways, depending on the respective roles and power of the relevant committees (such as the Budget Committee, the Development Committee and the Foreign Affairs Committee). Discussions and common positions on development cooperation may be agreed in one Committee, but the question remains of the degree to which full Parliament will consider these in its annual budget debate.

Indeed, many ACP representatives fear that the integration of the EDF into the budget would cause downward pressure on resources available to ACP cooperation; firstly because of the "annuality" principle that governs the EU budget and secondly because of the possible shifting of EU resources to non-ACP earmarked budget lines and other areas such as the Common Foreign and Security Policy.

Further, while most ACP officials are concerned about the slow disbursement rate of the EDF, few think budgetisation would address the real causes of this problem. Others observe that the EDF actually performs better than most of the cooperation programmes managed within the EU budget (e.g., ALA, MEDA).

There are also those who point to the many years of partnership and good practices behind the EDF. The EDF is still considered a fundamental instrument because of its symbolic role in the privileged ACP-EU relationship that has been built up since the first Lomé Convention. This positive legacy could be lost with budgetisation. Budgetisation may therefore put the very future of EU-ACP cooperation at risk. Some ACP actors feel that the Commission's proposal to budgetise is intended to reduce the visibility of the ACP in EU external actions by ending the special relationship.

Some officials stressed the existence of other opportunities for addressing the weaknesses of the EDF, for example, through the flexibility already provided by the Cotonou Agreement. They feel that full advantage has not yet been taken of the review mechanisms in the Agreement. Before the EDF is budgetised, time should be allowed to see what can be achieved with mechanisms such as the mid-term review and the performance-based allocation system in terms of improving financial management and disbursement rates.

A few ACP officials stressed that improvements in terms of management procedures must come not only from the ACP side but also from the side of the European Union. Efforts have to be shared, and the Commission should invest in improving its own procedures and disbursement capacity.

They further noted that the impact of budgetisation may differ from one ACP country to another. Those with strong performance in terms of EDF disbursement might benefit fairly quickly from budgetisation, but the lower performance countries may find it even more difficult to secure resources in this new, more competitive environment.

Some mentioned that the annuality of the budget would probably mean a further move towards fast-spending programmes, whereas process-oriented capacity-building activities would become less attractive.

In sum, ACP officials, who have not been closely involved in past debates on budgetisation, expressed concern about the security of aid and the future of ACP cooperation. These concerns are even stronger when it comes to the impact that budgetisation might have on the Cotonou principles of partnership, ownership and joint management. Thus, budgetisation of the EDF should not only be seen as a technical and internal EU decision but also as a highly political one which should include ACP partners. Some officials suggested that the budgetisation proposal be the subject of a roundtable discussion with representatives of the ACP, EU member states, the European Parliament and the Commission. This would help clear up misunderstandings about intentions and encourage emerging compromises.

4.2 The European Parliament

The European Parliament has long been opposed to the exceptional position of the EDF. Once in protest it even refused to give its discharge for the EDF expenditure. The Parliament has asked for budgetisation since its first resolution on the subject in 1973, and for a number of years it has maintained a *pro memoriam* ACP chapter in the EU budget.

The Parliament justifies its position in terms of the need to ensure that all Commission aid expenditures are properly controlled. If the EDF were budgetised, then ACP-EU development cooperation would be classified as a "non-compulsory" expenditure, which means that the Parliament would have the final say in setting budget levels. Budgetisation would thus represent for the Parliament increased power over ACP cooperation resources and with it a clear increase in democratic control and accountability.

Proponents of budgetisation argue that the historical reasons that justified a separate EDF are no longer valid.[21] They go so far as to assert that the European and global political context has changed and the inter-governmental nature of the EDF is in fact no longer advantageous for ACP countries.[22] Thus, for instance, the process of ratification of the EDF financial protocols has become more and more difficult since 1990, causing delays in the availability of EDF funds. Moreover, the level of the EDF stagnated in 1995 and 2000. Having 25 member states round the negotiation table will not make the discussions easier.

In the budget, on the other hand, with the active support of the European Parliament, development cooperation allocations have increased steadily. Most members of the European Parliament are convinced that using their budgetary powers they would be able to safeguard the level of aid to the ACP. They point to their past record in maintaining and increasing the level of funds for development cooperation within the EU budget and argue that were the EDF included in the budget they would be able to do the same for the ACP.

Yet there are nuances to this strong unified position. Some parliamentarians noted their interest in preserving the qualitative achievements of the EDF within the EU budget. Various parliamentarians are conscious of the need to find some adequate way of "ring-fencing" funds for the ACP, to ensure they cannot be siphoned away for other purposes. Some even mentioned the possibility of creating a new development cooperation heading in the Financial Perspectives.

4.3 EU member states

Though at this stage a number of member states have already indicated their likely stance on the question of budgetisation,[23] most states are still undecided about their final position. Some may change their views in the next few months as the debate evolves. However, a favourable attitude towards budgetisation does seem to be emerging. While divisions continue at present, some of the states traditionally favourable to the EDF, notably one of its biggest contributors, France,[24] now express support for budgetisation.

Most member states are favourable towards the Commission's objectives and welcome the aim to

21 For more information see V. Bocquet, *La budgetisation du FED une étape dans la modernisation de l'aide*, May 2003.

22 InfoCotonou No.1, Dieter Frisch, *Why the EDF Should be Included in the EU Budget*.

23 Agence EUROPE, 21 October 2003, p. 15. At the informal development ministers' (GAERC) meeting in Trieste the Commission took stock of reactions from member states and some new accession countries to its communication on including the EDF in the budget by 2007. Many countries expressed their views: France, Belgium, Luxembourg, the Netherlands, Sweden, Finland, Denmark, Poland and Hungary supported integrating the EDF into the budget. The United Kingdom, Spain and Ireland were against.

24 The French government commissioned a study which came out strongly in favour of EDF budgetisation. The authors are particularly adamant on questions of financial management, suggesting that the EDF systems are out of date and need to be replaced by an annual system as pertains in the EU budget. See Bocquet and Viallon, May 2003.

increase disbursement rates and rationalise and simplify management procedures. Differences appear when it comes to the modalities for reaching these objectives. Budgetisation is looked upon as one option to arrive at better cooperation. From there, the thinking and the priorities start to differ from one state to the next.

The new member states generally seem to be reserving their official position on this issue until details and further explanations are forthcoming from the Commission. Nevertheless, they are willing to consider the possibility of budgetisation. A number of them are concerned with coherence of EU external actions and the effectiveness of aid and see these as elements of ACP-EU cooperation that could be advanced by budgetisation.

Nearly all EU member states, even those clearly in favour of budgetisation, share the view that the Commission's proposal at this stage is not sufficiently detailed to enable them to take a decision. More issues need to be addressed, especially possibilities for safeguarding both the overall amount of resources and the quality of aid. The member states are also waiting to hear ACP countries' positions on budgetisation, since they feel that the ACP should be equally involved in the decision-making process.

In essence the member states' positions can be grouped around four frequently raised concerns: First is the *financial cost of budgetisation*, which is almost always taken into account by the member states in their position on budgetisation, although its importance varies. As contributions to the EDF have always been voluntary, some member states contribute proportionately less to the EDF than they do to the EU budget. Budgetisation would therefore increase their costs,[25] whilst other member states would pay less if the EDF were integrated into the budget.[26]

A second often-raised concern relates to the *consequences for the level of aid to ACP countries*. Adequate protection of ACP funds within the EU budget could be provided by a Council declaration and in a co-decided financial regulation guiding the implementation of ACP-EU cooperation. Supporting such a "ring-fencing" of ACP resources by creating either a sub-heading for ACP cooperation under the existing Heading 4 (external actions) or a new heading in the Financial Perspectives would be attractive to many stakeholders.
Third, the *poverty focus of the EDF* (and other EU aid programmes to developing countries) is an issue. Some member states have expressed clear interest in finding mechanisms to safeguard the poverty-reduction focus of the ACP Cotonou Partnership Agreement. This prompts some representatives to talk of the need to "EDFise the budget" rather than to "budgetise the EDF". By this, they stress the importance of extending the partnership principle, joint management and the quality features of ACP-EU cooperation to other areas of EU development cooperation.

Finally, the *visibility of development cooperation programmes* remains an issue for some member states. They feel that the current system of a separate EDF better reflects their priorities and allows for privileged relationships with ACP countries.

For a number of EDF contributors, the debate surrounding budgetisation is political in nature, and as such cannot be seen as a technical issue. This is one reason why budgetisation has to be contextualised within the current reform of EU external actions and the forthcoming negotiation of the Financial Perspectives.

4.4 The Court of Auditors

The European Court of Auditors has underlined the advantages of a "fund" for development cooperation over an annual system like the budget but it has also raised concerns over the delays caused by the slow European ratification process of the Cotonou Agreement and the EDFs. This favourable position towards the "fund" was confirmed in the auditors' annual report for 2001,[27] which recognised that the current system of financing development aid is under constraints that are likely to make implementation slow. It suggests that the Commission display more realism in establishing its forecasts so as not to give rise to unjustified expectations. The Court also asked the Commission to put more emphasis on reforms aimed at eliminating this slowness, so that the 9th EDF would not suffer the excessive implementation delays found in previous EDFs.

More recently, the Court, in its opinion on the EDF financial regulations,[28] suggested other ways of improving the financial management of the EDF.

[25] For example, the UK contribution will increase from 18.78 per cent of the EU budget, compared to 12.69 per cent of the EDF; for Spain 7.46 per cent compared to 5.84 per cent and for Ireland 1.19 per cent compared to 0.62 per cent.

[26] This calculation is of course a static approach since it is based on an analysis of the current financial contributions which will probably change with enlargement and reform of the Union's expenditure. Much will depend on the next Financial Perspectives.

[27] Court of Auditors Annual Report 2001, p. 289, points 14–17.

[28] ECA Opinion No. 12/2002 on the proposal for a Council Financial Regulation applicable to the 9th EDF under the ACP/EU partnership agreement signed in Cotonou, 23 June 2000.

Thus it argued that the legislator should:

> *innovate by adopting a single Financial Regulation applicable to all present and future EDFs, which, like the general Financial Regulation, would be amended whenever there was felt to be a need. A measure of this type would ensure continuity of approach, without the risk of interrupting implementation of the EDFs, and would greatly simplify management.*

The Court of Auditors pointed out the problems of ratification and the impact of this on aid delivery in its annual report in 2002. The report suggests that efforts be made to solve this problem, saying that *one option* could be budgetisation of the EDF.

As yet, the Court of Auditors has not taken a position on the Commission's new proposal to budgetise the EDF. When consulted it refers to its previous reports on the issue which on the one hand point out the positive aspects of the "fund" mechanism and on the other criticise the delays caused by the slow ratification process of the EDFs.

4.5 Non-state actors and NGOs

Eurostep[29] has welcomed the idea of budgetisation, as it feels the change will address some of its concerns on the management of the EDF and the lack of democratic control.[30] At the same time, however, Eurostep highlights the need for certain safeguards to maintain the ACP-EU partnership. For example, it envisions an enhanced role for the ACP-EU Joint Parliamentary Assembly and secure allocations to ACP countries for the lifespan of an EDF.

CONCORD, the umbrella organisation of European development NGOs, of which Eurostep is a part, is examining the issue of budgetisation and is likely to put forward a number of conditions for EDF budgetisation. At the time of writing it had not yet reached a position.

4.6 Similar objectives, different approaches to achieve them

This brief review illustrates the variety of views and concerns held by stakeholders on the proposal to integrate the EDF into the EU budget. In many respects and with the recent publication of the Commission's communication on the issue, this is not surprising, as the public debate has only just begun.

The traditional supporters of budgetisation, members of the European Parliament, remain firm in their view, though they are concerned about the modalities used and the need to "fence in" funds for the EDF. Member states are divided as in the past but at least one key supporter of the EDF has shifted its position to the budgetisation camp. This also raises questions as to what the EU member states' positions will be if they have to negotiate financial contributions to a successor to the 9th EDF. New member states are still by and large undecided but they are not unsympathetic to some of the arguments advanced by the Commission. Opinions are also divided on the ACP side, with respondents identifying both disadvantages and advantages. Many actors feel that the Commission needs to provide more details of how budgetisation would work in practice before they can take a fully informed decision.

What is striking is the similarity of the concerns raised by many stakeholders regarding the management of the EDF and its future. Yet even so, they are not necessarily convinced by the Commission's view that budgetisation provides a real answer to these concerns.

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29 Eurostep is an association of some 20 European NGOs focused on European development policy.

30 Presentation on the EDF by Guggi Laryea, 10 July 2003, Brussels. See http://www.eurostep.org/pubs/position/acp-eu-cotonou/jpa%20presentation%20(1).pdf . Also, for more details see Eurostep Discussion Paper, October 2003, *Integration of Cooperation with ACP Countries in the EU Budget: The Budgetisation of the EDF.*

5 Common grounds for problem solving

Though stakeholders do not necessarily agree on ways to address their concerns regarding the management of the EDF and its future, they do share the common objective of wanting to improve ACP-EU cooperation. This establishes common grounds for compromises to achieve this objective. The concerns highlighted by the stakeholders can be grouped into four categories: (i) democratic control and transparency, (ii) efficiency of aid delivery and the quality of assistance, (iii) security of aid and (iv) coherence of EU external relations. These are explored below.

5.1 Democratic control and transparency

As pointed out, the EDF is the only EU financial instrument that is not subject to the democratic control of the European Parliament. The Parliament has no control over EDF expenditure; its annual vote on the discharge of the EDF is merely symbolic.[31] The Parliament does not currently adopt the appropriations for the EDF since these are contributed voluntarily by member states outside of the budget. Budgetisation of the EDF would resolve this anomaly at a stroke and ensure parliamentary oversight over the whole financial process.

Some European proponents of budgetisation argue that the ACP countries have been marginalised by remaining outside the EU budget and thus not being directly linked to the political debate about the Union's priorities.[32] Others argue that the historical reasons that justified having a separate EDF are no longer there.[33] However, ACP officials do not necessarily share that perception and some argue that the special relationship between the EU and the ACP remains alive mainly because of the different status of the EDF.

There are also a number of weaknesses in the current structure of Heading 4 (external actions) of the EU budget.[34] One of these is the lack of transparency of reallocations of commitments and payments. One way to redress this would be to create a separate sub-heading for all EU development cooperation resources under Heading 4 of the budget. This would enable the EU to provide a global picture of its external assistance and development policy orientations, in terms of both scale and geographical distribution. It would also encourage increased coherence across the Union's various external actions.

Commissioner Nielson has in fact gone a step further and stated that he would strongly welcome a role for the ACP-EU Joint Parliamentary Assembly alongside the European Parliament in providing some democratic control over the EDF.[35] Presumably this would entail giving this joint Cotonou institution an opportunity to monitor and control resources available to the ACP. Though this would certainly enhance accountability and transparency, exactly how it would function would have to be thought through. The Joint Parliamentary Assembly is made up of members of the European Parliament and from all ACP parliaments. The Assembly would therefore presumably function as a clearing house to pull together views on the use of EDF funds from all of these parliaments. However, the Assembly could not have the same constitutional budget scrutiny function as any one of the parliaments from which it draws its members. Thus, and particularly if the EDF were budgetised, the Joint Assembly could have no formal role vis-à-vis the EU budget like that of the European Parliament. But it could no doubt serve a useful function as an additional sounding board from which parliamentarians could draw inspiration in their budget scrutiny work.

Most ACP countries welcome an enhanced role for the European Parliament. Some ACP countries expect a lot from parliamentary involvement, since this institution is generally known to be "development sensitive". The Parliament, they feel, is more accessible than other EU institutions, and once directly involved through the budget, members would also help ACP countries influence other EU policies (such as fisheries and agriculture), which often have a greater impact on development than development assistance programmes. For their part, a number of member states are sensitive to the Parliament's arguments for budgetisation, even if they are unhappy about a possible loss of visibility for their own national financial contributions. Many civil society stakeholders would welcome a greater role for the European Parliament in setting priorities. Here a clear distinction should be made: whilst most actors are sympathetic towards an increased role for

31 In 1994, the European Parliament refused to give discharge to the Commission because of its lack of influence over the use of the EDF.

32 See for example Dieter Frisch (2003).

33 For more information see V. Bocquet, *La budgetisation du FED une étape dans la modernisation de l'aide,* May 2003.

34 Heading 4 includes, alongside other external relations budget lines, all EU funds for developing countries other than the EDF.

35 Commissioner Nielson's speech to the Joint Parliamentary Assembly, Rome, 14 October 2003.

the European Parliament, this is not necessarily the same as accepting the EU budgetary procedures for ACP-EU cooperation. The annuality principle, in particular, could undermine the quality of assistance, predictability and the multi-annual financing framework. There may be better ways of increasing parliamentary involvement in the EDF. For instance, the EDF could be included in the next Financial Perspectives, while maintaining the fund mechanism. Another possibility is to increase the Parliament's role in monitoring the utilisation of the EDF.[36]

5.2 Improving aid delivery and the quality of assistance

Increasing disbursements

The EDF is widely criticised for lack of performance and utilisation of resources. However, using the Commission's own figures,[37] it can be argued that in terms of disbursement speed, the EDF performs better than many other EU assistance programmes to developing countries.

One indicator for measuring and comparing performance of the EU budget and the EDF is the years that it takes to disburse the resources committed. These "amounts due" are known as RAL (*reste à liquider* or "outstanding commitments"; see also Box 6). Commission figures show that the RAL of several major areas of EU budget aid to developing countries is worse than that of the EDF (Box 5).

The Commission's own figures show that while EDF performance is certainly not satisfactory, the EDF does perform better in terms of disbursements than budget lines for Latin America and Asia, and nearly as well as cooperation with the Mediterranean and South Africa.[38] Thus, a main problem in EU external assistance is shared by the budget; that is, the length of time that it takes to actually deliver aid to recipients.

Box 5: RAL expressed in payment years[39]

Financed by the EU budget:
Latin America..... 7.8 years
Asia..... 5.2 years
Mediterranean..... 4.4 years
South Africa..... 3.8 years

ACP-EU cooperation:
EDF..... 4.4 years

Despite improvements in the disbursement of EDF resources the level is still far from the EU aim.[40] Nonetheless, budgetisation seems unlikely to be the most effective measure to improve the disbursement rate. Other reforms could have greater impact. For instance, devolution of management to the EC delegations could result in quicker disbursement, showing results as early as 2004 and 2005 for most ACP countries.[41] It must also be kept in mind that efforts to increase disbursements also focus on issues such as governance, technical assistance, absorption capacity and the harmonisation of procedures.

Some critics point to the RAL as a problem of the EDF. Yet again the problem is unlikely to be solved within the budget.[42] In the budget unused appropriations lapse at the end of a given year. Better RAL figures within the budget are thus not necessarily a sign of better management, but simply a reflection of the fact that the problem disappears at the end of the budget year. Unused appropriations in the budget mostly remain in the coffers of the member states' finance ministries. In the EDF, unused appropriations are available for other purposes within the ACP. They thus remain evident, therefore feeding criticism.

36 A provision in the Inter-Institutional Agreement and the Internal Agreement between the EU member states and the European Commission might be enough to ensure an increased role for the European Parliament.

37 See *External Aid Programmes: Financial Trends (1989–2002)*, European Aid Co-operation Office, April 2003, http://europa.eu.int/comm/europeaid/reports/europeaid_trends_1989_2002.pdf.

38 See *External Aid Programmes: Financial Trends (1989–2002)*, European Aid Co-operation Office, April 2003, http://europa.eu.int/comm/europeaid/reports/europeaid_trends_1989_2002.pdf.

39 These are the Commission's own figures, but readers should note the difficulty of comparisons of performance of different budget lines and the EDF. For instance, the annual budgetary cycles in which disbursement and commitment rates are reported are very different from the commitment and disbursements cycles of the EDF. See *External Aid Programmes: Financial Trends (1989–2002)*, European Aid Co-operation Office, April 2003, http://europa.eu.int/comm/europeaid/reports/europeaid_trends_1989_2002.pdf.

40 The EU aims to disburse 3.0 to 3.5 billion euros per year under the EDF. Since 2001, an average level of 2 billion euros per year has been achieved. The Commission projects an increase of 500 million euros in 2003 and further increases after completion of the third phase of devolution (deconcentration).

41 The third phase of devolution (or "deconcentration") which includes 30 EC delegations in ACP countries is under way and should be completed in 2004. Nonetheless, it will take time before the impact on disbursements become evident.

42 See Mirjam van Reisen, *EU Global Player: The North-South Policy of the European Union*.

Box 6: Outstanding commitments in the EU budget[43]

The EU budget has to reconcile the principle of annuality with the need to engage in multi-annual operations. That means commitments must be entered into for a period longer than the financial year in which the commitment is made. This is made possible through the entry of differentiated appropriations, consisting of "commitment appropriations" and "payment appropriations".[44]

The introduction of differentiated appropriations automatically leads to a gap between commitments and payments. The sum of appropriations committed but not yet paid is called "outstanding commitments" or RAL *(reste à liquider* in French). Outstanding commitments include a normal component linked to the system of differentiated appropriations and an abnormal component linked to problems with implementing some multi-annual activities.

Outstanding commitments have continued to grow in recent decades as a result of the evolution of EU policies and the multi-annual operations required for their implementation. The growth of outstanding commitments is worrying for some, since it represents a growing liability for the EU budget and thus a medium-term constraint on the payment appropriations needed to honour this debt. Accordingly, strict rules apply for deadlines on implementing multi-annual projects or programmes within the budget:

- Legal commitments entered into for multi-annual measures must contain a time limit for implementation which must be specified to the recipient when the aid/external assistance is granted.
- Differentiated appropriations not used at the end of the financial year, as a rule, lapse (art. 7 (2) of the financial regulations).

Problems do exist with the utilisation of resources from the EU's funded programmes. But it is debatable whether they are any bigger for the EDF than for activities funded through the budget. Solutions to these problems are thus unlikely to be found through budgetisation of the EDF.

Has 'partnership' gone too far?

When the inter-governmental Lomé Convention was signed in 1975 between the ACP and EU countries, it proffered a unique partnership principle and the long-term perspective of the EDF. The idea was that ACP countries would provide the policy and administrative framework while the EU would provide financial and technical assistance to support the implementation of development activities.

In this partnership principle, ACP-EU cooperation differs from much of the EU's other cooperation with developing countries. Throughout the project cycle, administration and delivery of aid is the joint responsibility of the ACP country and the EU. This concept of joint responsibility has undergone no major changes over the years. Accordingly, the Cotonou Agreement (Annex IV) has a set of legal provisions that guarantees all ACP countries the same prerogative to administer financial resources.

In practice, not all ACP countries have the expertise and capacity to fully implement the complex and changing procedures or to ensure full accountability. In some countries joint management has caused a whole series of problems, while in others it functions well. But since Annex IV contains no differentiations or levels of "joint management", all ACP countries, no matter how strong local capacity is, have the same legal rights. Thus, experience with the division of tasks and shared responsibilities varies widely from country to country depending mostly on political will and the capacity of the ACP partners and the EU representation in that particular country.

43 From the European Commission's (DG Budget) publication *European Union Public Finance*, third edition, 2002.

44 "Commitment appropriations" cover the total cost in the financial year of a legal obligation entered into with respect to operations to be carried out over a period of more than one financial year. "Payment appropriations" cover the expenditure incurred up to the amount entered in the budget, in meeting the commitments entered into during the financial year and in previous years.

Box 7: How to make partnership work better[45]

Recipient ownership is hard to combine with donor accountability. Donors look at the partners and observe weak commitment to development, institutional decline, poor accountability systems and aid addiction. They respond with hands-on approaches, despite evidence of their limitations. Developing countries see little sympathy for political realities, conditionalities, excessive bureaucracy and lack of policy coherence.

Why is it so difficult to combine recipient ownership with donor accountability? The main reason is that traditional partnership concepts are no longer adapted to the new political climate:

- *Development conditionalities have changed and more attention is now paid to good governance and accountability.* New actors such as non-state actors have to be accommodated, institutional capacities are often over-estimated and responsibilities of partners are poorly defined.

- *"Efficiency" criteria are inappropriate.* Performance is measured according to levels of disbursement, delivery of inputs and adherence to deadlines. These "efficiency" criteria are weighted towards control-oriented relationships in which the benefits from a partnership – such as ownership, discussion and debate, flexibility and sustained local impact – are hardly measured. For supporters of fiscal accountability and aid efficiency too much partnership can have a negative impact on aid delivery. Where aid is considered (according to these criteria) to be inefficient or ineffective, the partnership is often blamed. However, believers in impact and the contributions of genuine partnership argue that it is the evaluation criteria and not always the partnerships that need to be changed.

Improving the management of partnership

To improve the management of partnership, programme design and implementation should be changed. Decentralised decision making and management should help establish local capacity as the basis for action, which should be based on country-specific approaches.

To use partnership effectively, recipients sometimes have to say no. Donors and recipients must seek joint agreement on conditionalities and thus define new accountability systems.

To build partnership capacity, ad hoc institutions and procedures should be dismantled. Instead, efforts should be made to build local actors' analysis and negotiation skills, while working with a process approach and using strengthened local accountability structures.

A number of Commission officials have raised questions about how far the concept of "joint management" should go. One reading of the disbursement figures suggests that the principal delays occur where joint commitment of funds is required (e.g., in national and regional indicative programmes). Where large amounts of the EDF remain unspent, allowing the Commission to administer some of these funds on its own, with reduced ACP involvement, might well gain support in EU circles.

[45] This box is from *Partnership in the 1990s: How to Make it Work Better* by J. Bossuyt and G. Laporte. Policy Management Brief No. 3, 1994. Maastricht: ECDPM, http://www.ecdpm.org/Web_ECDPM/Web/Content/FileStruc.nsf/index.htm?ReadForm&C9FA44F4B463F010C1256C8B0034580D.

On the other hand, it has been argued that EDF budgetisation is one of the last steps in a process of slowly undoing the Lomé concept of partnership.[46] Academics point out that ACP-EU cooperation has seen a steady move away from the partnership principles embedded in the first Lomé Convention. The loss of European interest in ACP countries and their lack of power have resulted in a continuous weakening of the ACP position.

If the EDF is budgetised, joint management is still possible in theory, but due to EU budgetary procedures and the requirements on "sound management" (that final accountability rests with each official), most ACP countries are unlikely to be given the responsibility to manage resources themselves to the extent intended under Cotonou.

A glance at Box 7 shows that there is little new in the current discussion about partnership, ownership and joint management. Many of the principles and identified solutions remain the same. The discussion on EDF budgetisation brings these issues back to the forefront, but each element in the debate can also be addressed separately from the question of budgetisation. The Commission's intention seems to be a re-examination of the current distribution of roles between national authorising officers and the EU management structures so as to bring these in line with the objective of improving aid delivery. Such issues could be addressed in the upcoming review of the protocols and annexes in early 2004.

Finally we should recognise that ownership remains a strong guiding principle in development policy. The joint management of financial resources under the Cotonou Agreement is one of the most hailed embodiments of ownership in the donor community. It is nevertheless difficult for the Commission to reconcile the joint management concept with the pressure to disburse and accountability requirements. Moreover, it is debateable whether joint management is the only way to build a partnership and preserve the principle of ownership. In any case, it is difficult to operate with one set of guidelines for joint management for all 78 ACP countries. Some of these countries have the capacity to fulfil the responsibilities Cotonou gives to them, others less so. We may ask whether there are ways to respond to this concern that are not necessarily linked to budgetisation? Could one imagine a differentiated approach to joint management that is more tailored to specific national circumstances?

Enhancing the efficiency of aid

The EDF and development assistance funded through the EU budget have arisen separately. This has led to two parallel systems within the Commission, which puts pressure on the implementation of EU programmes and especially on the EDF.[47] The parallel constructions make it difficult to use existing human, organisational and administrative resources efficiently. The dual procedures and administrative systems exist not only at the level of headquarters in Brussels but also locally at the level of the EC delegations in the ACP countries and other regions. In line with its reform of external assistance, the Commission has made efforts to harmonise and simplify structures. But it still applies two different sets of management procedures in external assistance. Moreover, the Commission operates with a relatively small number of officials in charge of a relatively large amount of resources.

Most actors are sympathetic with the problems the Commission encounters due to complex administrative and procedural structures. Most acknowledge that efficiency gains could be achieved by abolishing the dual set of rules and procedures. A single system would establish coherent procedures that would apply to all cooperation. However, this would not necessarily require budgetisation of the EDF. A set of rules, procedures and structures could be created for all EU-funded programmes in developing countries without losing out on the qualitative elements and experience gained from decades of ACP-EU cooperation. Indeed, some stakeholders suggest that what is really needed is to make assistance funded under the EU budget more like the EDF, by introducing greater opportunities for multi-annuality, predictability and joint management in EU budgetary procedures than is currently possible.

The delays in implementation of the EDFs caused by the EU ratification process are another source of inefficiency. These delays are caused by the EU member states and a solution should be found. One option could be to budgetise the EDF, which would make resources available swiftly. Another option would be for the European member states to adopt similar ratification procedures as the ACP (i.e., approval by two-thirds of the member states).

[46] *Cotonou: Slowly Undoing Lomé's Concept of Partnership* by Kunibert Raffer, University of Vienna (October 2001).

[47] European Commission. *Flexibility Versus Systemic Constraints of the EDF System*, June 2003.

5.3 Security of assistance to ACP countries

Ensuring the level of aid

One of the biggest concerns of the ACP countries is that EDF budgetisation would put downward pressure on the overall amount of money allocated. They are aware that some EU member states and indeed some members of the European Parliament are more concerned with the level of allocations to the least-developed countries and with the poverty focus of EU aid than with the needs of the ACP.

In fact, the proportion of EU aid going to the least-developed countries has gradually declined in recent decades, from 57 per cent in the 1960s to 25 per cent in 2000. This trend is the result of a much faster growth in assistance to middle-income countries, mostly in the "near abroad". Such a trend reflects the EU political context and is likely to be reinforced with EU enlargement, since it is consistent with the development policies pursued by the new member states.[48]

The Commission argues that ACP development resources would be better secured in a budgetary context than in 'negotiations of financing contributions detached from the political processes'. The Commission's communication on budgetisation states that it will aim 'as a minimum at maintaining the total level of support to the region currently provided through the EDF and be guided by the general evolution of EU GNI'.[49] This sentence is a key statement in the Commission's communication, but it raises the question of whether the reference is made to funds actually disbursed or to the full funds available in the EDF. That said, it should be pointed out that the association of the development of EU GNI with the financial resources available to the ACP is a positive step. It remains to be seen whether the budgetary authority would agree with such an explicit linking, although the Commission's proposal would be in line with the EU commitments made in Monterrey. One element in securing funds for the ACP could be to confirm this association in a Council statement.

A number of conclusions can be drawn from the present structure of Heading 4 and the budgetary procedures (Box 8). First, if the decision is made to budgetise the EDF, an increased ceiling will clearly be needed. Second, since the ACP chapter will be by far the largest under Heading 4, there is a real danger that it will be prone to being raided by the Commission or the European Parliament when there is a shortfall of funds elsewhere. Third, if the EDF is budgetised, the amount is big enough to justify either a new heading or a sub-heading under Heading 4.

Box 8: Budget Heading 4 (external actions)

The commitment ceilings for Heading 4, which includes all external actions and the Common Foreign and Security Policy (except for pre-accession aid and the EDF), is approximately **4.9 billion euros** annually and thus represent less **than 5 per cent of the EU's own resources.**

Some policy areas and their appropriations for commitments in 2003 are as follows:

Geographical cooperation (in thousands of euros)
Cooperation with Asian developing countries.....562.5
Cooperation with Latin American developing countries.....337.0
Cooperation with the countries of southern Africa, including South Africa.....127.0
Total per annum.....1,026.5

Other relevant horizontal/thematic budget lines under Heading 4[50]
Cooperation with the Mediterranean and Middle East...753.9
Food aid and support operations.....425.6
Humanitarian aid.....441.7
European initiative for democracy and human rights ...106.0
Common Foreign and Security Policy.....47.5

In comparison, the Commission projects a commitment of 2.5 billion euros under the 9th EDF in 2003.[51] This amount is about half the total commitments under Heading 4.[52]

There is also the question of how well served ACP interests and priorities would be in the annual budget debate in the European Parliament.[53] This debate between the two parts of the budget authority is known to be tough and compromises

48 See *Consequences of Enlargement for Development Policy,* September 2003, pp. 62–63.

49 Commission Communication 8.10.2003, p. 14.

50 Budget lines within Heading 4 currently disburse approximately 700 million euros annually to the ACP countries.

51 The aim is to speed disbursements to between 3.0 and 3.5 billion euros per annum.

52 From financial information on the EDF, proposal for a Council decision fixing the financial contributions to be paid to the EDF by member states (second installment for 2003), COM (2003)353, Brussels, June 2003.

53 For further information on this subject, see option 1 in section 6 of this discussion paper.

often hard to reach, especially in times of budgetary constraints. Shifting priorities or fast-moving European agendas may also have a negative impact on development partners' requirements in terms of long-term planning and funding predictability. In this arena the ACP cooperation lines would be in direct competition with those for other regions and thematic programmes. In such a context, concerns about the unpredictable character of the Parliament's role in determining priorities and resource allocations are not surprising.

However, both the EDF and the budget are unpredictable with respect to the level of aid they can offer to ACP countries in the future. EDF funding depends on the generosity of member states, whereas EU budget resources vary according to budgetary constraints and the overall EU political agenda. Thus, there can be no prediction that the overall amount would, in the long term, remain level, regardless of whether the fund is moved inside or kept outside of the budget. Even if a way could be found to "fence in" funds for the ACP within the budget, there can be no long-term guarantee. This is true for both the EU budget and the EDF.

Predictability versus flexibility of aid

Predictability and flexibility need to be balanced in external assistance. Though most stakeholders in ACP-EU cooperation accept the need for this balance, they do not necessarily agree on how it should be achieved.

The Cotonou Agreement was the first big step away from the aid entitlements ethos of the Lomé Convention. When Cotonou was signed in 2000, a number of provisions to reduce the automaticity of funding were introduced in ACP-EU cooperation.[54] Most of these provisions will be used for the first time in 2004:[55]

- flexibility in the indicative programmable and non-programmable financial resources available for each ACP country (the so-called A and B envelopes);
- performance-based resource allocation (determined by mid-term and end-of-term reviews of the Country Strategy Papers and National Indicative Programmes);
- the 1 billion euro conditional reserve which is dependent on the utilisation of the 9th EDF;
- the decision of a date after which no further commitments of funds can be made under the 9th EDF.[56]

Whereas Commission officials argue for increased flexibility in the EDF, a number of ACP countries assert that a new balance between predictability and flexibility was already established during negotiation of the Cotonou Agreement. Many ACP countries believe that the Commission is using the rapidly changing European agenda as an excuse to question this new balance too quickly, even before the provisions have been used. If the EDF is budgetised, they fear a new situation developing with too much flexibility and too little predictability. For some, the continuing drive for reform is another example of a fast-moving European agenda that does not correlate easily with the slower pace of development in most ACP countries.

5.4 Enhancing coherence in EU external actions

The Inter-Governmental Conference, which is currently negotiating the new European constitutional treaty, is seeking to increase coherence among EU external actions, especially between the external policies of the Commission and the Common Foreign and Security Policy. This should lead to closer linkages between development cooperation and other areas of external action, with emphasis on increased effectiveness and visibility. If the EDF is budgetised, ACP-EU cooperation will also likely be drawn into a closer relationship with broader EU foreign policy.

One could legitimately argue that in the current context of reform of EU external actions and with the new emphasis on matters not related to development, such as the EU's proximity policy, security and the fight against terrorism, the exceptional position of the EDF outside the EU budget has distinct advantages. In particular it offers the ACP a chance to preserve its privileged cooperation with the EU focusing first and foremost on development and poverty eradication.

In fact, one of the special features of the Cotonou Agreement is its explicit recognition of the need for coherence in all relations between the EU and the ACP. Cotonou has three pillars: aid, trade and political dialogue. As a result, the EU probably already devotes

54 ECDPM, *Performance-Based Partnerships (1997) and Mid-Term Reviews* (2003).

55 See also section 3 of this paper.

56 As a new element, the current Financial Protocol guiding the implementation of the 9th EDF say that the amount provided is 'up to' 13.5 billion euros. This is a new invention which further questions how much money is actually available to the ACP.

greater attention to coherence in ACP relations than with any other region in the world. Would budgetising the EDF therefore make any real difference in this quest for coherence?

Nevertheless, if the need for increased coherence and mutual integration of external actions is seen as crucial, then one solution could be to create a sub-heading for EU external assistance to developing countries under Heading 4 of the Financial Perspectives. Such a structure would increase coherence, visibility and transparency while offering an improved opportunity for monitoring the overall use of EU finances for development cooperation.

6 Options for the future

Having reviewed the positions of a range of stakeholders and explored the main issues and concerns raised, we now look towards options for improving ACP-EU cooperation in the current context. There is the obvious Hamlet's choice: "to budgetise or not to budgetise". But as already suggested the choice need not be seen in such absolute terms. There are different ways of budgetising, and even if the choice is made not to budgetise there are measures that can be taken to respond to existing concerns.

Most stakeholders agree with the objectives stated by the Commission:

- countering perceptions of a "political marginalisation" of the ACP;
- strengthening the democratic legitimacy of cooperation with the ACP;
- improving the effectiveness of EU aid to ACP countries;
- improving disbursement rates;
- permitting a faster response to evolving needs and priorities;
- enhancing efficiency and harmonisation of procedures and practices and reducing transaction costs of development aid.

But they differ in the emphasis they give to these points and over how best to achieve the objectives.

The previous section grouped these issues and stakeholder views under four headings emphasising the most frequently raised concerns:

- accountability and transparency;
- effectiveness of aid delivery and the quality of assistance;
- security of funding and balancing flexibility and predictability;
- policy coherence and the political profile of ACP-EU cooperation.

For none of these sets of concerns were all stakeholders convinced that budgetisation is the best or only way forward. In fact, other possibilities for addressing the concerns have been mentioned.

Fundamentally, however, the choice of which option to pursue should be based on *what is best for ACP-EU cooperation and the achievement of the objectives of the Cotonou Agreement*. If this is accepted as the starting point then a number of more detailed criteria can be advanced by which to assess the possible options for action:

- Does it support an agreed vision of ACP-EU cooperation as outlined in the Cotonou Agreement?
- Is this the best option to enhance the credibility and political importance of ACP-EU cooperation?
- Does it improve aid delivery and efficiency?
- Does it enhance accountability, transparency and democratic control?
- Does it support long-term poverty-focused development?
- Does it build on and complement existing achievements in ACP-EU cooperation and provide a framework to improve on weaknesses?
- Does it enhance coherence between different aspects of ACP-EU cooperation and generally encourage the pursuit of the "3Cs" of coordination, complementarity and coherence?

6.1 All possibilities open

The debate is far from over. In our interviews it became clear that a variety of options can be considered, providing they are voiced, explored and debated. In the words of one Commission official, "Everything is possible!" In the current climate of change in the European Union, with the Inter-Governmental Conference in progress, enlargement becoming a reality, a new set of Financial Perspectives on the horizon, a new legislature of Parliament and a new College of Commissioners on the way, the openings are there. All stakeholders should therefore actively seek the best way forward to enhance ACP-EU cooperation. In this respect the Commission is right to choose this point in time to raise the question of budgetisation.

In addition to these points one other factor has changed since the debate was last conducted five years ago: the European Union now has *a single development policy statement*.[57] Ideally this should be complemented by a single approach to funding development cooperation in line with the EU's Barcelona and Monterrey commitments. The results of such a move would be increased democratic control, visibility and coherence between regions and budget lines that could be followed up by a more rational organisational structure in the Commission.

[57] EU Development Policy Statement, Council and Commission, November 2000.

6.2 Three options to improve ACP-EU cooperation

Without complicating the choice unduly, three basic options can be considered (see also Table 1 below):

- keeping the EDF separate;
- creating an ACP budget chapter under Heading 4 of the EU budget as suggested in the Commission communication;
- making innovative and flexible use of the Financial Perspectives, probably through the creation of a new heading or sub-heading for development.

Option 1: Keeping the EDF separate

If the EDF is kept separate from the EU budget, there is nevertheless sufficient concern among stakeholders to tackle some of the issues raised by the Commission in its communication regarding management and disbursement of funds. As mentioned earlier, various opportunities are approaching in the near future to do this.

One of these opportunities is the impending end of the financial protocol (Annex I) of the Cotonou Agreement. This opens the possibility to **review the annexes of the Agreement** (art. 95). In doing so, two main discussions can be envisaged. First is a debate on the future financial protocol, which would set the global amount of financial resources available to the ACP and the different instruments for implementing a 10th EDF. Second is a **review of Annex IV**, which covers the joint responsibilities and role of the national authorising officers in implementing the Cotonou Agreement. Either technical adjustments or a comprehensive review allowing for differentiated joint management can be foreseen, depending, to a large extent, on what kind of a mandate the European Commission gets from the EU member states (see also Box 3).

Another possibility is to look at **enhancing the role of the European Parliament and the Joint ACP-EU Parliamentary Assembly** in ensuring control, accountability and transparency of funds utilised under the EDF. A paragraph in the Inter-Institutional Agreement and the Internal Agreement between the EU member states and the Commission about the role of the Parliament in approving EDF allocation guidelines might be one way to extend *democratic control while maintaining a separate EDF*. Thus, increasing the European Parliament's role in ACP-EU cooperation does not necessarily have to be associated with budgetisation of the EDF.

The first **mid-term reviews** of the Country Strategy Papers and National Indicative Programmes will occur in 2004, offering another opportunity to improve ACP-EU cooperation. Results of the mid-term reviews will serve as the basis for adjusting and *refining intervention strategies and reallocating resources*. They could thus enable the ACP and the EU to jointly address the question of how they might increase disbursements through increased flexibility without losing predictability and poverty orientation. A related question is how to increase disbursements from the non-programmable B envelopes that are set aside for unforeseen developments.

A final point at which flexibility could be introduced and pressure raised to improve aid delivery is the review of the **1 billion euro conditional fund** and the decision of a date after which no more commitments can be made from the 9th EDF. If the 1 billion euros is released, it should be jointly decided how best to use this money, for what purposes and according to what principles and procedures.

These forthcoming reviews and revisions of the Cotonou Agreement provide a number of opportunities for **adjusting and improving the modalities of ACP-EU cooperation while keeping the EDF separate from the EU budget.**

There is thus space to seek improvements while preserving the positive features of the EDF. If dialogue, informal meetings and better communication between key players can be encouraged, upcoming events may indeed serve to improve ACP-EU cooperation. However, these measures cannot fully address the inefficiencies linked to the parallel structures within the Commission and the need for more coherence among the Union's external actions, which has caused the Commission to pursue another path. The delays in implementation of the Cotonou Partnership Agreement caused by the European ratification process of the EDFs are not dealt with either. However, other initiatives could be taken on European side to deal with such shortcomings.

Option 2: Budgetisation via an ACP chapter under the existing Heading 4

Budgetisation of the EDF as a chapter or budget line under Heading 4 would seek, among other things, to address the Commission's problem of having *two parallel financial and administration systems*. It would thus *improve efficiency* in the management of external assistance by creating one structure, one administration and one set of procedures to implement all external assistance to developing countries.

Table 1: Options for the future of ACP-EU Cooperation

Option 1:
EDF remains separate from the EU budget

Advantages/problems addressed:	*Disadvantages/problems remaining:*
• The qualitative elements of the EDF (i.e., predictability, security of funding and joint ownership) preserved through continuation of the multi-annual Cotonou framework. • Review and revision possibilities within the Cotonou Partnership Agreement given a chance to prove their worth. • Intervention strategies and resource allocations adjusted and refined according to the Cotonou processes and timeline, thus strengthening the ACP-EU partnership while improving aid effectiveness. • Democratic control and accountability could be improved by giving a greater role to the European Parliament and the Joint ACP-EU Parliamentary Assembly.	• Problems of democratic control and accountability would remain. • Parallel management and administrative structures would remain, both locally within ACP countries and within the Commission itself. • Delays in implementation mainly caused by long European ratification process of the EDFs. • Some ACP countries lack the capacity to implement joint management of EDF programmes, though the review of Annex IV could establish a differentiated system. • Coherence with other EU external actions would remain an issue.

Option 2:
EDF budgetised as a chapter under the existing Heading 4 (external actions)

Advantages/problems addressed:	*Disadvantages/problems remaining:*
• Streamlining the Commission's management of development resources by creating a single financial and administrative system. • Commission gains flexibility to shift resources between priorities for external actions. • Coherence increased among EU external actions. • European Parliament exercises full democratic control over ACP development resources. • ACP (and especially NAOs) would start operating with one set of EU procedures. Currently, many countries receive funds from both the EU budget and the EDF.	• Joint management by ACP partners would be difficult to maintain through existing budgetary procedures • Greater flexibility for the Commission could mean less predictability for the ACP partners. The principle of annuality will substitute the spending guarantee in the Cotonou Agreement. • It is unclear whether improvements would be made in the effectiveness of aid delivery, disbursement speed or the quality of the implemented programmes. • Difficulties would remain with monitoring and control of reallocations and actual use of appropriations within Heading 4. • Lack of visibility of the EU's efforts to achieve the Monterrey commitments and the Millennium Development Goals would remain.

Option 3:
EDF budgetised through the EU Financial Perspectives

Sub-option 1: Including the EDF in the Perspectives but not making it subject to annuality

Advantages/problems addressed:	*Disadvantages/problems remaining:*
• Democratic control by the European Parliament increased, along with accountability and transparency. • A single management structure could be established to streamline management of external assistance, both within the Commission and locally on the ACP side. • Predictability and multi-annuality safeguarded.	• To safeguard the predictability and multi-annuality of funding and programmes, special budgetary procedures would be needed to enable appropriations to be utilised over the five to seven year Financial Perspectives period. • Revisions would be needed in the EU financial regulations and budgetary principles to allow for joint but differentiated management of financial resources.

• Positive qualities of the EDF maintained (e.g., predictability, security of funding, joint ownership). • Greater visibility ensured of EU efforts to realise the Monterrey commitments and alleviation of poverty.	• This option might be difficult to achieve; much depends on the political will of the EU member states.
Sub-option 2: Creating a new heading in the Financial Perspectives for the EDF	
Advantages/problems addressed:	*Disadvantages/problems remaining:*
• Democratic control by the European Parliament increased, along with accountability and transparency. • Visibility of EU external assistance improved. • Financial contributions easier to monitor. • Some security of funding, which could be further strengthened, is provided to the ACP. • Budgetary restrictions provide some guarantee that resources are used solely for development purposes. • If the new heading were to incorporate all EU external assistance, a single set of procedures could be created for all external assistance administered by the Commission.	• Coherence among EU external actions would remain a problem since a large percentage of the financial resources would be clearly separated from other external actions. • To safeguard the predictability and multi-annuality of funding and programmes, special budgetary procedures would be needed. • Revisions would be needed in the EU financial regulations and budgetary principles to allow for joint but differentiated management of financial resources.
Sub-option 3: Creating a new sub-heading under Heading 4 in the Financial Perspectives	
Advantages/problems addressed:	*Disadvantages/problems remaining:*
• This sub-option offers the advantages of sub-option 2, but with the added benefit of increased coherence among EU external actions with two sub-headings under Heading 4: one for external assistance and the other for security-related issues. • Transparency and visibility of EU external assistance is further improved.	• To safeguard the predictability and multi-annuality of funding and programmes, special budgetary procedures would be needed. • Revisions would be needed in the EU financial regulations and budgetary principles to allow for joint but differentiated management of financial resources.

It would also provide *a possibility to increase coherence among the EU's external actions* by locating ACP-EU cooperation within the rest of the Union's budget for external actions. Moreover, an ACP budget line under Heading 4 would increase the Commission's ability to transfer resources between *shifting priorities for external actions.* This form of budgetisation would also automatically give the European Parliament in a clear and straightforward way the same *democratic control that it exercises* over other EU resources.

Whereas this option appears to address a number of concerns held by some Commission officials and members of the European Parliament, **it does not address the majority of concerns expressed by the ACP countries and some EU member states**. Thus it is questionable whether this option would increase the effectiveness of aid delivery or improve disbursements or the quality of implemented programmes. There would be little long-term guarantee of the level of funding available to the ACP even though a ring-fencing mechanism might be established. It is also questionable whether the visibility of EU external assistance would be improved. Raising EU visibility is one of the key objectives of the Commission's internal reform of external assistance. One key problem with the current structure of Heading 4 is the difficulty of monitoring reallocations and the actual use of appropriations because of the many different chapters covering external actions. Moreover, the predictability of assistance to the ACP would be reduced. Annuality and the existing budgetary procedures would give the Commission more room to manoeuvre and the ACP less predictability.

Option 3: Flexible use of the Financial Perspectives

As another way of addressing stakeholders' concerns, several options can be envisioned to budgetise the EDF through a more flexible use of the Financial Perspectives. In this vein, three sub-options could be suggested, all of which could be taken one step further by including not just the EDF in the provisions

but all EU funds for developing countries. Some aspects of these options were alluded to earlier.

The first sub-option is to **include the EDF in the Financial Perspectives, but not make it subject to the principle of annuality**. This would extend parliamentarian control, increase accountability and transparency and enable the Commission to erect one management structure for all of its external assistance to developing countries. At the same time, it would safeguard the predictability and multi-annuality of the EDF. The EDF would thus be integrated into the Financial Perspectives (covering five to seven years) but not into the EU annual budget. Because the EDF would continue to operate on a multi-annual rather than annual basis, it would retain its predictability element. Conceivably this provision could be extended to all EU assistance to developing countries.

One challenge to this option would be finding an innovative procedure to allow appropriations to be utilised over five to seven years, before they lapse at the end of the Financial Perspectives period. Another obstacle relates to the financial regulations applicable to the EU budget and the budgetary principles. Existing budgetary procedures and principles would have to be adapted, and this would probably require extensive consultation with all stakeholders. Nonetheless, this might be possible in light of the current institutional and constitutional changes taking place within the European Union.

The second sub-option is to **create a new heading in the Financial Perspectives for the EDF, or for all EU development cooperation**. This would ensure high visibility of the Union's external assistance and make it easier to monitor financial contributions and their use. This construction would clearly be in line with the EU commitments made in Monterrey and Barcelona (e.g., harmonisation and increasing the level of funding available). Furthermore, it would give the European Parliament a role in controlling the resources and enhance accountability and transparency. Thus, visibility, efficiency and accountability would be among the gains. Also, the budgetary restrictions for transferring resources from one heading to another would provide some guarantee that resources available under the heading would be used solely for development purposes and not transferred elsewhere.

One weakness of this option relates to the issue of predictability versus flexibility and the annuality of the EU budget. These are among the concerns most often expressed by ACP countries and some EU member states. If a solution to the annuality problem can be found, then this concern could be allayed. Political decisions and priorities should guide the instruments and procedures – not the other way around – so addressing such concerns would seem mainly a question of political will. Moreover, a Council declaration could confirm the overall level of funding and thus provide a further guarantee of future funding levels. Furthermore, if the new heading incorporated all EU external assistance programmes, this option would allow the Commission to operate with a single system and one set of procedures for all EU assistance to developing countries.

However, some would argue that this option does not ensure or strengthen coherence between EU development policy and other external actions. It may therefore be difficult to reconcile with the aims of the forthcoming European constitutional treaty. This concern is primarily European in nature. The Cotonou Agreement itself has already sought to balance the Union's different external policies by integrating external assistance with trade and other political aspects. Nevertheless, the question remains of how coherence might be further improved.

The final sub-option is to **create a new sub-heading under Heading 4.** As expressed by Commissioner Patten in a recent speech,[58] the problem of coherence among EU external policies could be addressed by making two sub-headings or "funds" under Heading 4 (external actions): one sub-heading for external assistance to developing countries and another for security-related issues (e.g., the Common Foreign and Security Policy). This would ensure transparency and contribute to coherence in EU external policies, whilst providing visibility and possibilities to fulfil the Barcelona and Monterrey commitments. Since sub-headings are largely subject to the same procedures as headings, the budgetary authority would be consulted before resources could be transferred between priorities. Thus, this option shares many of the characteristics of the creation of a new heading in the Financial Perspectives (above). Yet it offers the added benefit of enhancing coherence among external policies.

Again, if a solution to the problem of the annuality of the EU budget can be found, such as the flexible use of the EU Financial Perspectives, it could lead to a constructive balance between sound management, flexibility and speedy disbursement versus predictability, quality and multi-annuality. Such an option could improve ACP-EU cooperation and keep it at the forefront of international cooperation.

If a political compromise could be reached to create the required instruments and rules to implement this option, then a major increase in efficiency and effectiveness of both ACP-EU cooperation and EU budget-funded external assistance to developing

[58] Chris Patten, ODI, 7 November 2003.

countries could be accomplished. Of course, such a scenario would have to be based on close consultation with ACP leaders and would have to maintain, or even improve, the "qualitative achievements" of past ACP cooperation. Thus, this scenario would still have to address the key concerns of the security of funds, possibilities for multi-annuality and joint, but differentiated, management of external assistance.[59]

6.3 Which option to choose?

The options presented seek, to varying degrees, to address the issues and concerns expressed by the Commission and stakeholders regarding ACP-EU cooperation and administrative procedures and reform within the European Union. Choices must be made and, of course, much depends on the political will and dialogue that develops in the coming year. Joint meetings with key players from the ACP group, the European Parliament, the EU member states and the Commission might help to sort out some of the issues. Grounds already seems to be emerging for compromises that could benefit all parties, but all parties must be involved in finding the best "package" possible. Innovative instruments, based on consultations with stakeholders, will be needed to achieve all the objectives set by the Commission.

The question of which option should be chosen is difficult to answer. Efforts are clearly needed to ensure that any reform of development assistance policy does not relegate the EU's special relationship with the ACP group to a secondary position. Moreover, decisions on EDF budgetisation should be accompanied by binding commitments that ensure a similar level of resources remains available for ACP countries in the future, as proposed by the European Commission. An appropriate balance between predictability and flexibility in finance should also be found, and any new system should facilitate more efficient and effective deployment of EU aid resources in ACP countries.

Can a political compromise be reached between the European Parliament, member states, the Commission and ACP countries? Budgetisation could allow scope for improvements in ACP cooperation if the qualitative achievements of the Cotonou Agreement can be maintained and appropriate procedures and instruments established. However, the ACP would gain little from EDF budgetisation without the level of funding being ensured, the predictability of funds maintained and multi-annuality preserved.

Ultimately our enquiry suggests that the decision on whether to budgetise is both technical and political in nature. The technical and political aspects are two sides of the same coin and changes to the "spending guarantee" and the division of roles and responsibilities are elements of the so-called "Culture of Lomé". Budgetisation of the EDF could result in fundamental changes to the ACP-EU partnership. But much depends on the way in which it would be carried out. Careful analysis of the consequences and close dialogue between the key actors are needed to ensure a positive and constructive choice that will improve the implementation of the Cotonou Partnership Agreement. It is now essential to look carefully at the details of the Commission's proposal and enter into dialogue on whether such a move really is in the best interests of ACP-EU cooperation.

[59] Commissioner Chris Patten argued along these lines at a meeting on 7 November 2003. See 'Europe in the World: The Common Foreign and Security Policy and Its Relations to Development' in: *European Development Cooperation to 2010: What Scenarios for the Future?* Overseas Development Institute, London. http://www.odi.org.uk/speeches/edc_2010/meeting_report_7november.html.

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