



# **Charting the course to 2020:**

## **FUNDAMENTAL CHOICES FOR THE NEGOTIATION OF A FUTURE ACP-EU PARTNERSHIP**

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This paper builds on previous work of ECDPM

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# INTRODUCTION

## AN OPPORTUNITY FOR A NEW MODEL OF COOPERATION

Formal negotiations for the future of ACP-EU relations should start in August 2018. Unlike previous rounds, this renegotiation of a new ACP-EU partnership agreement will not be business as usual. Since the signing of the Cotonou Partnership Agreement (CPA) in 2000, major changes have taken place. These include new geopolitical realities, globalisation and regionalisation dynamics, the growing heterogeneity of the ACP group, a changed EU, and the emergence of a ‘universal’ 2030 Agenda for Sustainable Development, which transcends the traditional North-South divide and calls for different means of implementation.

All these factors have led to an increasing marginalisation of the privileged relationship between the ACP and the EU –as the various actors seek to defend their interests through different continental, regional and thematic bodies<sup>1</sup>. The best illustration of this evolution is the partnership between Europe and Africa. The 2017 Abidjan AU-EU summit saw multiple calls for a deeper and more equal partnership between the two continents, an ambition that was long held back by the donor-recipient model of cooperation that is enshrined in ACP-EU partnership approach. At the press conference of the summit, AUC Chairperson Moussa Faki openly called to “[...] assess the 42 years old ACP-EU Partnership, together with our European friends. These types of relationships are outdated”<sup>2</sup>.

The AU’s entry into the debate changes the terms of engagement. It is also in line with the new ambitious and reformist wind that is blowing through the continental institutions following the Kagame and Kaberuka

reports that came out last year<sup>3</sup>. Changes the EU nor the ACP can afford to ignore. There is still a long way to go for the AU before the announced reforms will be fully implemented but with every step, the AU is becoming a more credible and legitimate pan-African institution. It is in the interest of the AU and regional bodies to engage *now* in the negotiation process on the future of ACP-EU cooperation. This is particularly true considering that the EU has proposed to conclude a new partnership agreement for an indefinite period.

Many actors may still see the renegotiation of the ACP-EU partnership as a technical matter or as a fixed characteristic of EU development policy. Yet it is in fact a rare, generational opportunity to modernise the overall approach to international cooperation; an opportunity to update the EU’s relations with Africa and move beyond a state-centric and donor-recipient partnership.

Since the entry into force of the Lisbon Treaty, the EU has experimented with its broadened external mandate, entering into new partnerships, trying out new tactics and approaches – sometimes with a plan, more often in response to problems. Examples include EU Trust Funds, the Global Agenda for Migration and Mobility and the new European Fund for Sustainable Development (EFSD). The Cotonou Agreement in that sense has become an anomaly. It symbolises a particular European development approach to most of Africa, the Caribbean and the Pacific that far predates EU-28; an approach that has evolved along with an expanding EU, yet is now increasingly overshadowed by AU-EU relations and more urgent strategic priorities<sup>4</sup>.

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1 For a detailed analysis see Bossuyt, J., e.a. 2016. *The future of ACP-EU relations: A political economy analysis*. Policy Management Report 21. ECDPM.

2 Authors’ translation of a response of Chairperson Moussa Faki at the press conference of the 5th AU-EU summit in Abidjan on 30 November 2017. Original: “Il est temps, avec nos amis européens, d’évaluer notre coopération. Les ACP ça fait 42 ans (...) ça va arriver à terme en 2020; je pense que ce genre de relations a vécu (...)”.

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3 Kagame, P. 2017. The Imperative to Strengthen our Union: Report on the Proposed Recommendations for the Institutional Reform of the African Union; AU Peace Fund. 2016. Securing Predictable and Sustainable Financing for Peace in Africa

4 Bossuyt, J., Keijzer, N., Medinilla, A., Sherriff, A., Laporte, G., Tollenaere, M. de. 2017. ACP-EU relations beyond 2020: Engaging the future or perpetuating the past? Maastricht: ECDPM.

Africa is currently at the top of the EU's foreign policy agenda. While the official narrative is that Africa is a new frontier, a continent of opportunity and future prosperity, in the eyes of many European politicians, it is first seen as a threat, a source of potential terrorism and an endless supply of people coming to their shores. Africa in turn sees an increasingly fragmented Europe that is still caught in a post-colonial, sometimes patronising logic. That said, Europe's fate is linked to Africa's by more than the risk of spillover and its shared history. There is a clear interest in fostering long-standing trade and economic relations for greater value creation and mutual market access that goes beyond raw materials. As Africa's markets grow and diversify, European interests will follow. The challenges ahead however are immense. According to the Heidelberg Conflict Barometer, Sub-Saharan Africa continues to be the region with the most 'high-intensity' level conflicts' (14 of 38 globally)<sup>5</sup>. By 2050, the population of Africa is set to double with an increase of around 1.29 billion people. Climate change vulnerability affects Africa more than any other continent. In short, the need for decisive action is great but the cost of inaction may be even greater.

In the next two years we will see the outcome of the Brexit negotiations and the European Parliament Elections. The post-Cotonou negotiations also coincide with the internal EU budgetary cycle and the revision of the EU's External Financing Instruments (EFIs) for a post 2020 set-up. All these processes combined are a unique opportunity. It means that the discussion can go beyond the age-old question of how to build coherence and complementarity between existing policy frameworks. Parallel negotiations may open the door for a more substantial reform of the EU's international cooperation model and its relations with Africa -one that is not defined by the frameworks and instruments that are in place, but by the challenges and ambitions that drive it.

## ABOUT THIS PUBLICATION

This publication looks at the core features of ACP-EU relations in this wider context of EU foreign relations and outlines the fundamental political choices that will need to be made in the upcoming negotiations. In the process, the EU, Africa and the ACP can opt for the path of least resistance, seeking to maintain and preserve core elements of the ACP-EU partnership in a future hybrid agreement; one that is primarily based on a traditional donor-recipient relationship with individual states, marginalises other actors, and *de facto* subordinates continental/regional bodies. Or they can choose to reshape the ACP-EU partnership, starting from the stated objective of mutually beneficial, interest-driven cooperation, based on multi-actor partnerships and regional dynamics. This may be more difficult to achieve in the short run, however it is the way forward in international cooperation, particularly for EU-Africa relations.

To illustrate the various fundamental choices involved in the renegotiation of the ACP-EU partnership in this wider strategic context, seven aspects of ACP-EU relations are detailed below. They start from the initial EU and ACP proposals to renew and extend the partnership while also ensuring a better integration of continental and regional dynamics. On that basis we identify critical choices both for the content of the partnership and the process of the negotiations.

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<sup>5</sup> Heidelberg Institute for International Conflict Research (HIIC). 2017. Heidelberg Conflict Barometer 2016. February 2017





# 1. THE DYNAMICS AT PLAY IN EU EXTERNAL ACTION

Between now and 2020, several internal and external EU processes coincide. This is illustrated with the visual on the following page. 2018 will be a year of uncertainty as well as a year of choices. The combined outcome of these processes will shape the EU's approach to Africa and the ACP for at least the next decade.

**On one side, the EU has pursued an interest and event-driven agenda,** pushing it towards more flexible partnerships and financing instruments under the next Multi-annual Financial Framework (MFF). The implementation of the EU Global Strategy prioritises the EU's interests abroad and gives way to a more realist and pragmatic foreign agenda, not least in the EU's approach to migration and mobility. At the same time, the EU is gradually adopting a stronger profile as a security actor<sup>6</sup> both abroad and at home. The AU-EU partnership seeks to harness common interests and cooperation on key urgencies including peace and security, migration and youth employment. The 2030 agenda and SDGs also call for a broader and more flexible partnership approach, one that crosses the boundaries of development cooperation. This is also reflected in the 2017 European Consensus on Development.

**On the other side of the spectrum, the ACP-EU partnership** embodies a different model of cooperation, that of an institutionalised, contractual and procedural North-South partnership. The history of the partnership pulls the EU and ACP in a different direction, one that favours predictability and control over flexibility and event-driven politics.

**In 2018, the EU for the first time proposes to bring the two together in the future ACP-EU agreement** by integrating, and eventually replacing the current Joint Africa-Europe Strategy (JAES) as a basis for a regional compact with Africa<sup>7</sup>. This is a laudable move that creates new opportunities. However, given the different languages of both partnerships this will be a difficult exercise, one that requires a fundamental rethink of how the EU engages in Africa and the ACP.

**Paradoxically, the success of this external negotiation will to a large extent depend on the internal politics of the EU.** The outcome of the Brexit negotiations will define what role – if any – the UK will play in the EU's approach to Africa and the ACP and vice versa. EU member states and institutions have always had an asymmetrical stake in EU-ACP cooperation, with the partnership currently being of most interest to the institutions and of low profile in most if not all member states. Many EU<sup>13</sup> countries take only a passing interest in the partnership. France and Germany will likely hold significant sway over the direction of the EU positioning. At the same time, smaller member states and 'coalitions' can and may yet leave their mark on the debate, as they have done in the past. The positioning of all these players – for the first time acting without a strong UK – will dictate the dynamics and outcome of the process. Linked to this, the internal negotiations on the next EU budget and the design of the next series of External Financing instruments, including a possible 12th EDF or a larger 'single instrument' extending beyond the ACP, will shape the EU's engagement abroad for the next years.

At the start of 2018, there are more questions than answers on how these processes will unfold in the next two years. Yet uncertainty can also be taken as an opportunity to broaden the EU's perspective on Africa and the ACP beyond what is defined by its own history and path dependency.

<sup>6</sup> Two parallel dynamics are at play: on one side, the EU seeks to strengthen its common defense capabilities with initiatives such as Permanent Structured Cooperation (PESCO); on the other, a reframing of the EU's role as a security actor is underway, both in terms of military and civilian interaction. One example is the recent adoption of Capacity building in support of security and development (CBSD), which sets a precedent for greater support to military actors with EU budgetary instruments.

<sup>7</sup> The same is proposed for the two regional strategies with the Caribbean and the Pacific.

# PARALLEL BUT DIVERGING PROCESSES BETWEEN NOW AND 2020



## IMPLEMENTATION OF THE EUGS



## 2030 AGENDA AND THE GLOBAL GOALS



## AFRICA-EU RELATIONS (JAES)



November 2017  
5th Africa-EU summit



## BREXIT NEGOTIATIONS

?  
WHAT FUTURE  
EU-UK RELATIONSHIP  
IN FOREIGN AND  
DEVELOPMENT  
POLICY?



## MFF NEGOTIATIONS

May 2018

Commission  
proposal for the  
post-2020 MFF



Legislative proposals  
for the new EFIs  
(Commission  
proposal for EDF)



## INTERNAL EU NEGOTIATIONS

?  
LINK BETWEEN  
INTERNAL  
AND EXTERNAL  
NEGOTIATION?



## POST-COTONOU NEGOTIATIONS



December 2017  
Presentation and  
discussion of the  
negotiation mandate

August 2018

Start of the  
negotiations



2018



- Resilience agenda and principled pragmatism
- EU Trust funds
- GAMM and migration compacts
- Joined up approach to EU external action

**?**  
CAN THIS BE  
RECONCILED WITH  
THE CPA MODEL?  
WHAT ARE THE  
NEEDS IN TERMS  
OF FUNDING AND  
FLEXIBILITY?

**FLEXIBLE,  
INTEREST-DRIVEN  
PARTNERSHIPS**

Deepening the partnership in four strategic priorities:

- Education, Science, technology and skills
- Resilience, Peace, Security and Governance
- Migration and Mobility
- Mobilising Investment

**?**  
CONTINUED USE OF  
EDF FUNDING FOR  
PRIORITIES OUTSIDE  
THE ACP-EU  
PARTNERSHIP?

**?**  
WHICH AFRICA  
PARTNERSHIP IN  
2018? HOW TO  
"UPDATE AND  
REPLACE THE  
JAES?"

29 March 2019

Indicative date for Britain to leave the EU

**UK COMMITMENTS TO EDF  
AND BUDGETARY INSTRUMENTS**

**ADOPTION PROCESS OF THE MFF  
SPECIAL LEGISLATIVE  
(CONSENT) PROCEDURE**

**START OF INTERNAL  
PROGRAMMING PROCESS**

**?**  
WHAT TYPE OF  
EU FINANCING  
AFTER 2020?



**A 12<sup>th</sup> EDF OR BUDGETISATION?**

**?**  
BUDGETISATION AS  
ANNOUNCED IN 2013?  
WHAT FLEXIBILITY IN  
THE FUTURE EXTERNAL  
INSTRUMENTS?

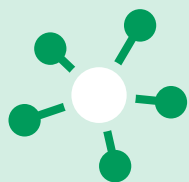
**?**  
PREDICTABLE  
BILATERAL AID  
ENVELOPES?

**SIGNATURE AND APPROVAL PROCESS**

**INSTITUTIONAL,  
AID-DRIVEN  
APPROACHES**

**2019**

**2020**



## 2. THE REGIONS HOW TO PARTNER WITH REGIONAL ORGANISATIONS?

The debate on the regionalisation of ACP-EU relations has evolved. Few will disagree on the need to shift the weight of a future partnership towards the regions. The EU proposes to do this in the form of regional compacts standing on an all-ACP foundation, with tailored regional priorities as well as specific governance structures to manage and implement the partnership at regional level, involving regional institutions. The ACP's initial positioning is much less clear on this yet the African Union has announced to be working on a continental position on the future relations with the EU.

While the principle seems fairly straightforward -regional integration is part of the African reality and should be reflected in an inter-regional partnership with the EU- in practice this is proving difficult. The EU, ACP and AU/ RECs may have different expectations as to what a regionalised partnership would look like. Many questions remain unanswered, and will be politically very sensitive to address: what role for which regional organisations in a future partnership? What is the link between regional partnerships and an all-ACP construction? Where will decision-making powers be vested? Who will control the resources? The weight of this discussion lies in Africa.

### DIFFERENT INTERPRETATIONS OF REGIONALISM IN ACP-EU COOPERATION

Over the years the ACP-EU partnership has sought to integrate or contain regional dynamics, by setting up dedicated regional approaches and finding creative ways to finance regional initiatives within the ACP-EU model. This builds on a long history of ACP-EU cooperation that predates the regional institutional landscape of today. Since 2000, the AU and Regional Economic Communities have increasingly come to the forefront, building up regional mandates and acting as privileged interlocutors of the EU. Trade and political cooperation – two pillars of the ACP-EU partnership – have been de facto 'regionalised'. At the same time, ACP-EU cooperation continued at a different pace, focusing mainly on the remaining development cooperation pillar of the CPA. Today's dilemma is whether or not the ACP-EU partnership can break through its own

path dependency and catch up with political and economic integration, particularly in Africa.

The following aspects need to be factored in:

1. **The Georgetown Agreement<sup>8</sup>** formalises the six geographical regions constituting the ACP: Central Africa, West Africa, East Africa, Southern Africa and the Caribbean and Pacific. This is a purely geographical division, which is also reflected in the setup of the ACP committee of Ambassadors, one that coexists and at times contrasts with the political regional divisions in Africa in 8 AU Regional Economic Communities (RECs)<sup>9</sup>.
2. **The 2000 Cotonou Agreement** recognises the importance of regional integration, yet it was not until the 2010 revision that the African Union and ACP 'Regional Organisations' were included as 'actors' of the partnership. Much like with Non-State Actors (see chapter 4) this recognition, with the exception of the Regional Indicative Programmes, did not lead to active participation in ACP-EU affairs and related governance structures. The primary actors of the partnership remain the EU, the ACP and their respective member states.
3. **The EPA negotiations** since 2002 added another layer of regionalism. The RECs were the basis of the negotiating groups, yet overlapping membership meant that – with the exception of the ECOWAS and EAC groups – African countries negotiated in dedicated negotiating groups. Similarly, regional programming in the ACP is based on five Regional Indicative Programmes: 'West Africa', 'Central Africa', 'Eastern Africa and Southern Africa and the Indian Ocean (EA-SA-IO)', 'the Caribbean', and 'the Pacific'.

<sup>8</sup> 2003 revision of the Georgetown Agreement

<sup>9</sup> The 8 EU recognised RECs are: The Arab Maghreb Union (UMA), the Common Market for Eastern and Southern Africa (COMESA), the Community of Sahel-Saharan States (CEN-SAD), the East African Community (EAC), the Economic Community of Central African States (ECCAS), the Economic Community of West African States (ECOWAS), the Intergovernmental Authority on Development (IGAD), and the Southern African Development Community (SADC).

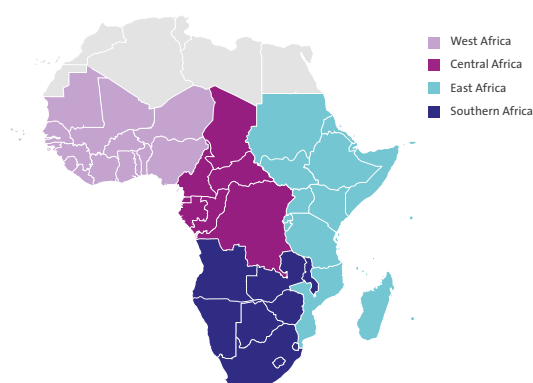
These regional structures were needed to deal with the messy politics and overlapping membership of regional organisations, yet there is an increasing mismatch between regional approach of ACP-EU and the reality of regional integration in Africa.

The development of the African Union since 2000 directly challenges the role of the ACP as a legitimate interlocutor. The EU has sought to respond to this with the Africa-EU partnership and the Joint Africa-EU Strategy (2007). For flagship AU programmes such as the African Peace Facility (APF), specific solutions were found to enable EU financing, yet the overall operationalisation of the JAES was partial at best<sup>10</sup>. The ACP also made efforts to bridge the gap between the (African) Regional Organisations and the ACP framework, such as the Inter-Regional Organisation Coordinating Committee (IROCC) with limited success so far.

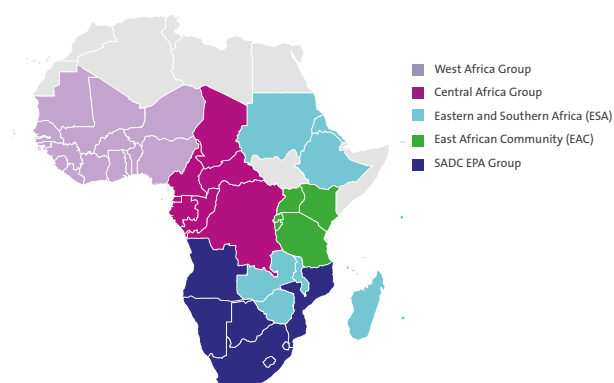
*Today, the question of regional partnerships is no longer a matter of associating or integrating regional organisations in EU cooperation, it is a question of legitimate leadership and parallel structures.*

The AU outranks the ACP in political clout, but the solution is not as simple as substituting one for the other. For the EU and a number of ACP countries, it is critical to preserve the development cooperation focus of the partnership and the established institutions for bilateral development aid. The AU, nor the other ACP regional organisations and RECs are in a position to take this up, nor do they have a clear interest in doing so.

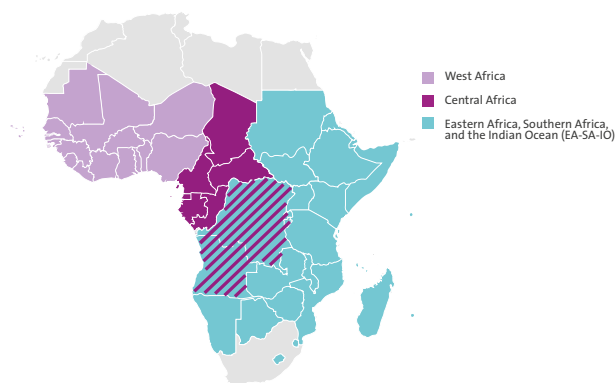
African Regions of the ACP



Economic Partnership Agreement negotiating groups



Regional Indicative Programmes (RIPs) of the 11th EDF (2014-2020)



African Union Recognised RECs



<sup>10</sup> Keijzer, N., Medinilla, A. 2017. Can the EU prioritise both the African Union and the Africa, Caribbean and Pacific group? Brussels: ETTG.

A regional partnership with the AU also significantly changes the terms of engagement. Institutionally and politically it is an entirely different organism than the ACP. The AU is a home-grown political institution, while the ACP is an intergovernmental body that evolved out of a historically dependent partnership structure for development cooperation management.

Given the challenges in the EU's relations with Africa, the appeal of an aid-driven partnership may also be wavering. What is needed now is a political partnership and strategy, one that can address the implications of demographic growth, migration, and climate change. A

partnership that also substantiates the joint ambitions of economic transformation, industrialisation and job creation with major and targeted investment across sectors.

## FUNDAMENTAL CHOICES

The proposed hybrid option of regionalised decision-making in an all-ACP partnership seeks a compromise between avoiding disruption and rationalising the EU's approach to Africa and the ACP. In this scenario, the EU and ACP need to make a clear choice between a top-down regionalisation or rebuilding ACP-EU cooperation from the regions up.

	OPPORTUNITIES	TRADE-OFFS AND RISKS
<b>TOP-DOWN REGIONALISATION:</b>  <b>INVITING REGIONAL ORGANISATIONS INTO THE ACP</b>	<p><i>In line with the 'acquis' narrative, the partners could agree on key principles as well as the institutional framework for cooperation and dialogue at an all-ACP level. Priorities would then be specified at regional level.</i></p> <ul style="list-style-type: none"> <li>• This option looks at regionalisation as a primarily technical process, in line with the history of ACP-EU regional cooperation.</li> <li>• It would start with building a broad foundation with common principles, as well as common strategic priorities and specific provisions for political dialogue and the delivery of development cooperation.</li> <li>• On that basis, regional partnerships or compacts would be negotiated in a second stage to define the overall strategic objectives and specific priorities for cooperation tailored to regional needs, within the framework of the foundation agreement.</li> <li>• Regional organisations would be invited to participate as well as implement these provisions of the partnership.</li> <li>• This would allow for tailor-made priority setting and programming, in a way that is consistent for the entire partnership.</li> <li>• Starting with a broad foundation, may also facilitate adoption of CPA based provisions and avoid major regional discrepancies in way of the normative commitments of the future partnership.</li> </ul>	<ul style="list-style-type: none"> <li>• There would be risk of conflict on the lead role of the ACP vs. the AU and RECs as the foundation agreement would largely set the terms of engagement including political dialogue, diversified cooperation procedures and overall strategic priorities.</li> <li>• A top-down process may alienate regional organisations and particularly the AU from the process, which would hinder regional positioning v-à-v the EU.</li> <li>• Emphasising the cross-regional character and the foundation may reduce the scope of what regional partnerships can achieve.</li> <li>• Maintaining many of the core components of the CPA in a future foundation agreement, limits the scope for innovation and interest-driven cooperation with Africa.</li> </ul>

## REBUILDING THE PARTNERSHIP FROM THE REGIONS UP:

### MAXIMISING THE SPACE FOR REGIONAL PARTNERSHIPS

*Alternatively, the partners could take the regional partnerships as the starting point in the negotiations with a lighter set of common principles at an all-ACP level. Both the institutional provisions and priorities for cooperation would be agreed on a regional level, with a strong role for the respective Regional Organisations in the implementation of the partnership.*

- This option addresses the ACP regions and their institutions as political entities and would be more in line with the regionalisation rhetoric of the EU and several member states.
- General common principles would be agreed at all-ACP level, setting a basis for cooperation while leaving specific provisions to the regional level.
- The EU would negotiate the bulk of the agreement with regional coalitions -supported by regional institutions as well as the ACP secretariat.
- Regional partnership agreements or compacts would cover the political dialogue and operational provisions as well as thematic priorities.
- This would shift the weight of the agreement to the regional partnerships and avoid confusion on who is in the lead in what area.
- It would also increase the political profile of the partnership with Africa by negotiating new provisions for regional cooperation and dialogue with a self-assigned role for regional organisations.
- Lack of a coherent vision by African Heads of State on the role of the AU and RECs as transnational organisations and foreign policy actors, may complicate regional positioning.
- Member state reluctance to empower regional organisations in political dialogue as well as in managing EU cooperation (in Africa) may limit the scope of what can be agreed regionally.
- There may be limited capacity and interest within the AUC to take a leading role in the negotiations, depending on the terms under which they are invited.
- Regional negotiations on sensitive elements of political dialogue and cooperation may prove more difficult than a cross-regional approach. Especially with regard to fundamental values and diversified cooperation on the basis of 'capacities, needs and performance'.

The way in which the regional component of the partnership is conceived will be a defining factor for its future performance and continued relevance as a cornerstone of Africa-EU relations.

"Shifting the centre of gravity of the partnership to the regions" is first and foremost a political choice, and is something that cannot be achieved through a simple technocratic move. This means that the regional partnerships need to come into play at the very start of the negotiations. It calls for:

1. **Regional positioning on all aspects** of the ACP-EU partnership; and
2. **Up-front clarification of the role of regional coalitions** and institutions in the negotiations

Over-reliance on existing structures may help smooth the diplomatic process of starting up the negotiations. Overloading a cross-regional foundation agreement would likely pre-empt any real innovation in the regional functioning of the partnership, and may not be in the interest of the EU in the long run.



### 3. THE MONEY FINANCING EU EXTERNAL ACTION AFTER 2020

The European Commission's draft EU negotiating directives<sup>11</sup> for a future ACP-EU partnership reveal very little on how a possible new agreement could be financed. The document merely mentions that the *"amount of resources available to finance EU external action will be decided upon in the context of the Multiannual Financial Framework (MFF) review"*.

This is particularly challenging in light of the upcoming negotiations. While some stakeholders in Brussels push for an agreement on the MFF by April 2019, i.e. before elections of the next European Parliament, many others are expecting that the MFF negotiations will take much longer to conclude. This means that negotiations on a new partnership will likely start without a clear view on the available finances for cooperation.

Under successive Lomé Conventions and the Cotonou Partnership Agreement (CPA), the financial picture was always quite straightforward. The European Development Fund (EDF), an extra-budgetary fund resourced with direct contributions by Member States, was exclusively reserved for the ACP countries. The main unknown factor was the overall size of the envelope –generally decided upon following a last minute political compromise at Council level.

This time around, the EU and ACP are in an entirely different ballgame. The next MFF will define the EU's overall budget starting in 2021, which is also when a new agreement with the ACP should be in place. This internal EU budgetary process is already in motion and calls for a much broader and complex debate on funding than in the past, also in relation to the ACP. Many political uncertainties and new dynamics will affect the negotiations:

- **The appetite of some Member States to increase the overall EU budget is likely to be limited.** The 2008 financial crisis is not yet fully digested, austerity policies continue to apply and the EU is facing a serious challenge of legitimacy. The argument that greater investment in global security and development also serves Europe's own strategic interests may not suffice to guarantee strategic levels of funding for EU external action.
- **The outcome of the Brexit negotiations is still uncertain<sup>12</sup>** but it will inevitably affect the overall amount of resources available and the political status of the Commonwealth members within the ACP-EU framework. While a future off-budget instrument may give more scope for the UK to continue to pay in, the ACP Group as currently constituted is not necessarily an attractive proposition to channel UK ODA to. Furthermore, given the political volatility in the UK, the appetite from the EU to 'keep the door open' by maintaining an off budget instrument that may or may not be taken up by the UK is limited. Creative solutions for possible future UK contributions could be imagined, but they cannot be relied upon.
- **The place and weight of development cooperation in the next EU MFF may further evolve –if not shrink.** More than in the past, the EU will need to reconcile its longstanding commitment to supporting development with a stronger engagement on global challenges (as set out in the 2030 Agenda), and increasingly also with its own geopolitical, economic and security interests (as defined in the 2016 EU Global Strategy).

<sup>11</sup> European Commission. 2017. ANNEX to the Recommendation for a Council Decision authorising the opening of negotiations on a Partnership Agreement between the European Union and countries of the African, Caribbean and Pacific Group of States. COM(2017) 763.

<sup>12</sup> See, Emmanuel de Groof, Andrew Sherriff. Beyond symbolic progress: UK contribution to EU development aid until 2020, ECDPM blog, 22 January 2018. & Walter Kennes, How Brexit may affect ACP-EU relations: an historical perspective, ECDPM Discussion Paper 220, January

- **There is a broad consensus on the need to revisit the full architecture of EU external financing instruments (EFIs)**<sup>13</sup> to reflect this expanding EU external action mandate. Keywords in the budgetary process are enhanced strategic focus, simplification and increased flexibility. One possible reform scenario that is being discussed is to put in place a ‘single’ financing instrument that would incorporate the existing EFIs with their respective geographic and thematic remits (such as the EDF, the DCI, the IcSP, the EIDHR, etc.)<sup>14</sup>.
- **For decades, the EDF has been the privileged financing instrument for ACP-EU cooperation. This will change. The EU is increasingly engaging in interest-driven cooperation** (e.g. the Emergency Trust Fund for Africa); it is also adopting a stronger focus on investment (e.g. the External investment Plan), and is likely to rationalise its toolbox of EFIs (possibly by integrating the EDF in a ‘single’ instrument or amalgamating it with other EU financing instruments). It is still not clear how this will play out in practice, but an EDF that continues to be exclusively reserved for the ACP is definitively a thing of the past.

## IMPLICATIONS FOR THE FUTURE ACP-EU PARTNERSHIP: KEY CHOICES FOR EUROPEAN POLICYMAKERS

Discontinuing the EDF as a specific fund dedicated to the ACP could affect the willingness of the ACP Group to make major concessions on European demands in the upcoming negotiations (e.g. in terms of human rights, the International Criminal Court, return and readmission, etc.). The same elements however are likely to be critical for the agreement to obtain the European Parliament’s assent. Yet the European Parliament themselves have a long-standing position to have more influence over the EU’s ODA funds through EDF budgetisation.

In any scenario, resources will still be allocated to the countries and regions of Africa, the Caribbean and the Pacific. However, delinking the EDF from the ACP Group

will affect the rules of the game to allocate and manage resources. It could shake up the internal cohesion of the Group –as access to EU funding was long the primary binding agent for the A, C and P states to engage in an all-ACP construction.

We identify five fundamental choices for European policy-makers:

**1. Will resources follow strategy?** This first choice is one of *policy coherence* in EU external action. In the past years, the EU is on a clear path towards a more interest-driven external action, building stronger political partnerships with *willing parties* in Europe’s proximity and experimenting with new and innovative approaches to financing its actions abroad (see section 1). The next MFF will need to reflect these changes in future funding flows, by way of a substantial diversification of financing and significantly more flexibility within and between future instruments. This may be at odds with continuing to ‘park’ a major financial envelope into a static and centralised ACP-EU framework. If the EU is serious about more flexibility, the predictability of funding for certain partner countries (a fundamental tenet of the Cotonou Agreement) will inevitably be affected.

### **2. Regional compacts and all-ACP, which comes first?**

The European Commission’s draft negotiating directives express a clear commitment to shift the ‘*centre of gravity*’ to regions. This is most relevant for Africa, with which Europe seeks to build a new political partnership<sup>15</sup>. Regionalising ACP-EU relations cannot be limited to defining strategic priorities for each region. It will be critical to also regionalise the decision-making (see section 2) and funding of the partnership. The planned rationalisation of the EU’s EFIs is a unique opportunity to streamline these highly fragmented funding flows into a unique instrument for Africa as a continent<sup>16</sup>.

13 European Commission. 2017. Mid-term review report of the External Financing Instruments. Brussels, 15.12.2017. COM (2017) 720 final. See also Bossuyt, J, e.a. 2017. Coherence Report. Insights from the External Evaluation of the External Financing Instruments. Final report. July 2017.

14 Di Ciommo, M., Sherriff, A., and Bossuyt, J. 2017. *The dynamics of EU budget negotiations for external action - Towards a ‘single’ instrument?* ECDPM Briefing Note 99. Maastricht: ECDPM.

15 European Commission. 2017. *Joint Communication for a renewed impetus of the Africa-EU Partnership*. Brussels, 4.5.2017. JOIN (2017), 17 final.

16 This coherent funding instrument towards Africa (encompassing actions at national, regional and continental level) could be integrated as one of the geographic ‘windows’ of a possible single European external action financing instrument post 2020.



### 3. How to apply the principle of differentiation to ACP countries?

The 2011 EU Agenda for Change introduced the principles of differentiation and graduation (from aid) in EU development cooperation. Under the 2014-2020 MFF, these principles are primarily applied to middle-income countries in Asia and Latin America. The New EU Consensus on Development (2017) reiterates the EU's commitment to provide 0.15-0.2% of its GNI as ODA to Least-Developed Countries, but also calls for a stronger EU engagement in Middle-Income Countries. Both ambitions will need to be reconciled in the country allocations under the next MFF. Many ACP countries will have attained middle-income status by 2020. It is therefore critical to agree on a suitable approach to differentiation in a future agreement on three levels: (i) financial allocations (i.e. who still needs traditional aid?), (ii) focus of cooperation (i.e. how to go beyond aid with MICs and develop mutually beneficial relations?), and (iii) political importance (i.e. who are the key partners for Europe's wider external agenda?).

### 4. How to promote EU values abroad and support civil society and local authorities?

Europe is struggling to effectively support democracy, human rights and peacebuilding, and to provide adequate funding and support to autonomous civil society actors and local authorities with its existing geographic instruments such as the EDF. The centralised nature of the EDF and the principle of 'joint management' with ACP governments (see section 6) often prevents the EU to provide meaningful support to the values agenda or engage strategically with civil society and local authorities (in line with core EU policies and the 2030 Agenda). The planned review of the overall EFI architecture will need to explore the scope to use direct funding modalities to cater for these political priorities.

### 5. How much is the EU willing to pay for the ACP and joint ACP-EU institutions?

This question may seem a technical one at first sight, yet it provides another 'coherence test' for the EU. Which 'joint ACP-EU institutions' need to remain in place and be (generously) co-funded by the EU in light of the stated objective is to shift the centre of gravity to the regions? The more the EU intends to engage with continental and regional bodies, the less need there will be to maintain all of the joint ACP-EU institutions. Strengthening regional governance structures inevitably implies slimming down centralised structures. If not, the EU may end up duplicating costly organizational structures. Furthermore, if the ACP is serious about becoming a global player and diversifying relations and engagement beyond the European Union, the bare minimum would be that the group finances its own Secretariat.





## 4. THE LEGAL BASIS WHAT TYPE OF PARTNERSHIP FOR POLITICAL DIALOGUE AND COOPERATION?

In their preparations, both sides express a desire to frame the future partnership in legally binding terms<sup>17</sup> citing that this would signal a strong political commitment to the future partnership. Less clear is which specific legal provisions the EU and ACP partners would seek to formalise or replicate from the CPA, and to what degree those commitments can realistically be enforced. The debate on the legally binding nature has so far been more ideational than operational.

The legal character of the ACP-EU partnership is often presented as a critical feature that is to be preserved at all cost in order to safeguard the 'shared values' component of the partnership (i.e. human rights, democracy, the rule of law and good governance). Keeping the so-called '*acquis*' of Cotonou in place, including provisions for political dialogue and conditionality seeks to minimise disruption in ACP-EU relations. Yet it also reflects a procedural model of EU external action, one that favours the perception of control over more pragmatic co-operation on areas of mutual concern.

Part of this derives from the EU's ambition to build a rules-based global order as provided for in article 21 of the Treaty (TEU). References to international law and multilateralism are a consistent feature in EU foreign relations and are woven through EU law and the EU's external action narrative<sup>18</sup>. The CPA provides a legal basis for engaging with no less than 79 countries<sup>19</sup>.

Maintaining a degree of '*global coverage*' with legal instruments and formal arrangements for co-operation is therefore a key consideration for the EU in its foreign relations.

### DIFFERENT EXPECTATIONS BETWEEN THE EU AND THE ACP

Most actors on both sides value the legal character and '*acquis*' of Cotonou, yet interpretations of what this means for a future agreement are very different on either side. Whichever the scenario, opposing views may be difficult to avoid. This is particularly true in the African context. The following dividing lines can be observed:

- **EU member states and institutions** emphasise the importance of the CPA's essential elements clause (Art. 9), framework for political dialogue (Art. 8) and the procedural provisions for dealing with violations (Art. 96-97), as well as the dialogue on migration (Art 13). While the operational and enforceable nature of these articles is put into question by abundant empirical evidence<sup>20</sup>, many still see the conditionality and sanctions policy of the CPA as a useful framework to react to grave violations of the shared values of human rights, democracy, governance and the rule of law.
- **The ACP's** main stated interest in a contractual partnership in turn comes from the perception of predictability for development finance and clear rules of cooperation. The financial protocol to the CPA (annex I) details indicative financial support, and the implementation and management procedures (annex IV), which outline the process for the programming of the EDF.

<sup>17</sup> European Commission. 2016. Joint Staff Working Document: Impact Assessment Accompanying the document Joint Communication to the European Parliament and the Council A renewed partnership with the countries of Africa, the Caribbean and the Pacific. SWD(2016) 380. p. 66-7; ACP Group. 2017. Aide Memoire: Basic Principles for ACP-EU relations Post-2020. ACP/28/007/17.

<sup>18</sup> Hill, C. Smith, M. & Vanhoonacker, S. International Relations and the European Union. Oxford University Press.

<sup>19</sup> Minus a handful of ACP states that did not ratify the Cotonou agreement or its successive revisions

<sup>20</sup> See: Bossuyt, J., Keijzer, N., Medinilla, A., Sherriff, A., Laporte, G., Tollenaere, M. de. 2017. ACP-EU relations beyond 2020: Engaging the future or perpetuating the past? Maastricht: ECDPM.; Bossuyt, J., Rocca, C., Lein, B. 2014. Political dialogue on human rights under article 8 of the Cotonou Agreement. (Study realised for the Directorate-General for External Policies of the Union). Brussels: European Parliament.

*For both sides, the effective guarantees provided by these legal provisions have dramatically reduced over time.*

There is evidence on the limits of article 8 political dialogue and the conditionality provisions, especially in those countries where shared values are most at risk. For the ACP, the guarantee of predictability of funding has eroded over the years as EDF resources and reserves have been redirected by the EU for all kind of purposes –often going against the CPA's principle of co-management of development cooperation. The erosion of the assurances of the CPA is often ignored in the discussion on the future partnership. Over-reliance on paper-based commitments therefore may lead to a false sense of control or predictability towards the other partner for the following reasons:

- **The success rate of 'blunt-force' conditionality under the CPA is limited at best.** Since 2000, the EU has increasingly shied away from invoking article 96 consultations, building up an alarmingly inconsistent track record<sup>21</sup>. Sanctions are applied in a selective manner and generally with limited results, which created an impression of unequal treatment and associated favouritism. Burundi in 2015-16 serves as the latest case in point<sup>22</sup>.
- **The renewal and total size of a possible 12th EDF, or an ACP specific instrument is a different discussion altogether,** and is linked to the EU's internal negotiation on the MFF. In reality, the allocation and even the programming of the EDF remains largely in the hands of the EU. Although the distribution of EDF resources between the A, C and P is discussed with the ACP states concerned<sup>23</sup>, over the years, the EDF has progressively evolved into a 'go-to' fund for EU priorities which are difficult to fund with other instruments (e.g. trust funds). This is particularly true for the considerable reserves of unspent funds from previous EDFs, which the EU tends to unilaterally decide how to spend.

21 Bossuyt, J., Keijzer, N., Medinilla, A., Tollenaere, M. De. 2016. The future of ACP-EU relations: A political economy analysis. (Policy Management Report 21). Maastricht: ECDPM. p. 59-69.

22 Following consultations in 2015-16, the EU suspended direct support to the government of Burundi, including budget support. In 2017 political tensions remain unresolved and the government in defiance of international criticism continues to steer towards constitutional reform to remove presidential term limits.

23 At the same time, the 11<sup>th</sup> EDF showed a trend of increased sector-imposition by the EU, sometimes going against ACP states' priorities and interests.

The perceived sense of control that comes with strict legal provisions therefore is also unlikely to prevail in the long term. Short-term, indicative financing commitments can be made at some point in negotiations, yet the relative importance of ODA will only further decrease in the years to come. The traditional model of the CPA where the EU provides resources to finance bilateral cooperation programmes will likely become even less effective in promoting a value-driven agenda, as the EU increasingly shifts towards a more 'realist' and 'pragmatic' foreign policy<sup>24</sup>.

## FUNDAMENTAL CHOICES

The EU and ACP institutions appear to agree on the principle of a legally-binding agreement, yet the choice still needs to be made between the status quo or a lighter and more agile approach to the partnership.

Will the EU and ACP simply seek to replicate the written rules of the Lomé-Cotonou tradition, or will they revisit the contractual aspects of the future agreement and adopt a more subtle and functional approach that reflects the 'pragmatic' shift of EU external action? What is the scope of the legal provisions that the partners want to pursue and will they seek to enforce these provisions in the style of the CPA? The table on the next page further clarifies the scenarios at hand.

24 Bossuyt, J., Sherriff, A., Tollenaere, M. de, Veron, P., Sayós Monràs, M., Di Ciommo, M. 2017. Strategically financing an effective role for the EU in the world: First reflections on the next EU budget. Maastricht: ECDPM.

	OPPORTUNITIES	TRADE-OFFS AND RISKS
<b>THE STATUS QUO:</b>  <b>REPLICATING CPA PROVISIONS IN A FUTURE AGREEMENT</b>	<p><i>In line with the 'acquis' narrative, the EU and ACP could seek to replicate the political dialogue provisions and/or financial protocols of the CPA as much as possible, in a single agreement that applies to the three regional partnerships.</i></p>	<ul style="list-style-type: none"> <li>• The predictability and sense of control of the Lomé-Cotonou tradition may be difficult to reproduce in 2020.</li> <li>• It's uncertain whether the normative 'acquis' of the CPA can be preserved. The EC's impact assessment also anticipates difficult discussions around specific issues, including the ICC, LGBTI, migration (return and readmission), and Article 96.<sup>25</sup></li> <li>• It remains unclear if the EU would be able to provide sufficient guarantees in terms of development finance altogether.</li> <li>• Over-reliance on conditionality and formal political dialogue mechanisms may limit the EU's influence in the longer run by focusing efforts in an approach that is increasingly losing ground due to limited effectiveness, and a reduction in the relative importance of aid.</li> </ul>
	<ul style="list-style-type: none"> <li>• This would validate the history of the partnership and responds to the negotiating partners' demand to preserve a degree of predictability and sense of control in the future partnership.</li> <li>• Depending on the negotiating structures, and if a consensus can be found, rolling over at least part of the CPA in a future partnership, could be easier than to renegotiate the full terms and arrangements for cooperation.</li> </ul>	
<b>A LIGHTER, AGILE FRAMEWORK:</b>  <b>RENEGOTIATE DIALOGUE PROVISIONS AT REGIONAL LEVEL, WITH A LIGHT ALL-ACP FRAMEWORK</b>	<p><i>Alternatively, the EU and ACP could strive for a lighter and more agile overall framework agreement as a foundation of the partnership, and negotiate the specific legal provisions for political dialogue and cooperation at regional level on the basis of a feasible and functional partnership agenda.</i></p>	<ul style="list-style-type: none"> <li>• Scaling back the overall contractual obligations in a future partnership could be read as a further reduction of the EU's normative capital abroad in favour of geopolitical, security and economic interests.</li> <li>• This may be a tough sell, particularly to the EP which has in the past insisted on strong human rights language to ensure its assent, as seen in the EPAs.</li> <li>• More flexibility alone does not address the structural weaknesses in the EU's values agenda or the cost of disjointed action, when the EU and its member states fail to come up with a clear line.</li> <li>• A differentiated approach requires more changes in the way the EU operates abroad, both in terms of political dialogue and in the practice of cooperation.</li> </ul>
	<ul style="list-style-type: none"> <li>• Broad principles and 'essential elements' would remain part of an overall agreement, much like is the case in other EU agreements, yet the emphasis shifts from procedural enforcement to functional cooperation and dialogue.</li> <li>• Instead of seeking to preserve the heavy CPA procedures, new and tailor-made systems would be developed at regional level, involving regional organisations and shaping bilateral dialogue.</li> <li>• Strong provisions for cooperation and dialogue could be foreseen in those areas where this is most feasible, e.g. peace and security cooperation with the AU in Africa.</li> <li>• This would also allow for a more context-driven normative agenda, which abandons the politically unappealing conditionality procedures of the CPA in favour of a more subtle and differentiated toolbox.</li> <li>• A more flexible legal framework would avoid delays and blockages in adoption and ratification.</li> </ul>	

25 Bossuyt, J., Sherriff, A., Tollenaere, M. de, Veron, P., Sayós Monràs, M., Di Ciommo, M. 2017. Strategically financing an effective role for the EU in the world: First reflections on the next EU budget. Maastricht: ECDPM.

Replicating the CPA's model of political dialogue and cooperation will not provide the guarantees the EU and ACP seek. A lighter, agile framework would tailor dialogue and cooperation to the regional partnerships and bring ACP-EU relations in line with the recent changes in EU foreign policy. Doing so requires letting go of the worn-out tools of the past and facing the messy world of politics head on. For the ACP-EU cooperation model this would mean to:

- **Agree on broad principles and essential elements** while acknowledging that there are no shortcuts to political change and enforcing commitments and obligations in international law.
- **Avoid overloading (a) successor agreement(s)** with heavy formal provisions and procedures for dialogue and conditionality.
- **Negotiate region-specific provisions for political dialogue and cooperation**, emphasising those areas where heightened cooperation is feasible, e.g. peace and security, sector-specific entry-points, while keeping options open in others.
- **Adopt a more sophisticated toolbox for political dialogue and cooperation.** This includes developing more strategic partnerships beyond governments, with political movements, civil society and private change agents; and mainstreaming values and rights-based approaches in those areas or sectors where the EU and its partners have most traction.
- **Think long-term and make use of shared interests and regional alliances**, focusing less on the trade-offs between pursuing one's own interests and upholding principles, but more on what change is possible and where.

A lighter, more pragmatic approach should also not be mistaken for a purely realist foreign agenda. Becoming more credible and effective cannot be based on the lowest common denominator and also requires:

- **Putting one's own house in order.** The perception of the EU's action in Africa has severely deteriorated, and CSOs, activists and citizens expect stronger and less divided support from the EU. A less explicit normative agenda does not exclude that stronger positions are taken in certain contexts.
- **Managing risk aversion.** Being more pragmatic when strategic interests are at play need not always preclude action on other fronts, selective self-censorship may even damage the EU's interests in the long run.



## 5. THE ACTORS STATE-CENTRIC COOPERATION OR MULTI-ACTOR PARTNERSHIPS?

ACP-EU cooperation has its roots in a profoundly state-centric approach to international cooperation. One of the key innovations of the Cotonou Partnership Agreement (2000) was that for the first time it explicitly opened up cooperation to actors other than central governments, thus recognising the complementary role of non-state actors (civil society, private sector, trade unions, etc.), parliaments, regional organisations and local authorities in the development process.

This intended broadening and deepening of ACP-EU cooperation however did not work as expected. While efforts were made to create more space for non-state actors and to provide capacity development support, the overall impact has been sobering. With a few notable exceptions, upstream participation in the definition of cooperation strategies and political and policy dialogue has been limited. Ownership and knowledge of the CPA remains largely concentrated in the institutional Brussels bubble. While a multitude of actors benefit from EDF funding downstream, this is mostly disconnected from the wider ACP-EU framework. Instead, a centralised culture of cooperation prevails among both ACP and EU officials.

On top of this, there is a clear worldwide trend to close the space for genuine participation of autonomous civil society actors while many (ACP) governments also resist engaging in meaningful decentralisation that empowers local authorities to be effective development actors. Access to (EU) resources by both civil society organisations and local authorities remains challenging, including for procedural reasons.

Since 2000, the global policy environment has gradually moved away from the state-centric creed. Building on the 2011 Busan Outcome Document, the 2030 Agenda (SDG 17) recognises that sustainable development is a responsibility that goes beyond states and governments. This is clearly reflected in the EU's new policies for engaging with civil society, local authorities and private sector. These actors are no longer treated as tar-

gets or beneficiaries of aid, but as drivers of change and development. The 2017 European Consensus for Development also acknowledges that international cooperation in the 21<sup>st</sup> century requires the mobilisation of all relevant actors and the forging of innovative multi-actor partnerships.

*While the policy debate has embraced multi-actor partnerships as key drivers of international cooperation, the ACP-EU cooperation model remains trapped in the classical state-centric model.*

The table on the next page illustrates these two conflicting narratives: the state-centric, top-down and bureaucratic model (as reflected in the current practice of ACP-EU cooperation) and the new narrative of international cooperation (as reflected in the Agenda 2030 and increasingly also in EU policy documents).

To what extent do the new EU and ACP proposals address this policy shift? The 2016 EU Communication on a renewed partnership with the ACP acknowledges the poor track record of ACP-EU cooperation in terms of participation. It proposes a renewed and true partnership based on the principle of co-responsibility, “*going beyond governments which cannot handle the challenges alone*”.<sup>26</sup> Yet no specific indications are provided on how to change the current restrictive practices of ACP-EU cooperation. The initial ideas of the ACP Group remain vague on how to overcome the participation deficit. A ‘*business as usual approach*’ seems to prevail, with at best some modification of the language of a future cooperation agreement to respond to the pressures of constituencies in favour of multi-actor partnerships.

<sup>26</sup> European Commission & HR/VP. 2016. Joint Communication: A renewed partnership with the countries of Africa, the Caribbean and the Pacific. JOIN (2016)52.

	<b>TRADITIONAL NARRATIVE</b> <i>Top-down, state-centered understanding of participation</i>	<b>NEW NARRATIVE</b> <i>Participation as engagement driven from the bottom-up</i>
<b>CIVIL SOCIETY ORGANISATIONS</b> <i>2012 Communication: The roots of democracy and sustainable development: Europe's engagement with Civil Society in external relations</i>	<ul style="list-style-type: none"> <li>• Beneficiaries of aid</li> <li>• Local partners</li> <li>• Providing basic services</li> </ul>	<ul style="list-style-type: none"> <li>• Development actors</li> <li>• Engaging in political and policy processes</li> </ul>
<b>LOCAL AUTHORITIES</b> <i>2013 Communication: Empowering Local Authorities in partner countries for enhanced governance and more effective development outcomes</i>	<ul style="list-style-type: none"> <li>• Managerial entities</li> <li>• Supporting Local Authorities</li> </ul>	<ul style="list-style-type: none"> <li>• Legitimate and developmental actors</li> <li>• Empowering Local Authorities</li> </ul>
<b>PRIVATE SECTOR</b> <i>2014 Communication: A Stronger Role of the Private Sector in Achieving Inclusive and Sustainable Growth in Developing Countries</i>	<ul style="list-style-type: none"> <li>• Development objective</li> <li>• Informing and consulting</li> </ul>	<ul style="list-style-type: none"> <li>• Development actor</li> <li>• Engaging and collaborating</li> <li>• Private sector partnerships and innovative financing instruments</li> </ul>

## FUNDAMENTAL CHOICES

By definition, the official parties of an international agreement will be the signatory states. Yet the EU and ACP now have a fundamental choice to make between continuing the institutionalised, state-driven approach to participation as in the CPA, or a more fundamental revision of the cooperation structures in line with the changing policy environment for engaging with civil society, local authorities and the private sector.

### A STATE-DRIVEN MODEL OF PARTICIPATION

This is the path of least resistance. The new agreement could recommit to increasing participation downstream and removing some barriers for accessing resources. While this may appear politically attractive, adding some development discourse on 'multi-stakeholder involvement' into a new legal text will not address the fundamentally centralised and intergovernmental governance model of ACP-EU cooperation. Power and control over the resources has been the main blocker for effective participation in the past.

### AN OPEN, MULTI-ACTOR MODEL OF COOPERATION

This may be more likely to deliver development impact, yet requires a much greater degree of reform. Doing this will not be easy and calls for:

- **Abandoning the formalistic consultation and participation approach of the CPA.** Participation as a box-ticking exercise should make room for strategic partnerships with a clear purpose.
- **Spelling out concretely how ACP-EU cooperation as well as the three regional compacts, will embrace multi-actor partnerships at the level of political dialogue, cooperation and funding.**
- **Taking action to strengthen the enabling environment** for the participation of civil society, local authorities and the private sector, including in those ACP countries where this may be politically sensitive or where other strategic EU interests are at play.
- **Removing institutional barriers to cooperation** that are entrenched in the traditional *modus operandi* of the ACP-EU framework, and fundamentally reviewing the financing structures to make it easier to engage with the diversity of non-state actors in ACP countries (beyond the constraining effects of institutions like the National Authorising Officers).
- **Prioritising direct and strategic (multi stakeholder) partnerships** with CSOs, private sector, local authorities, and their representative bodies.
- **Providing clear and tailored incentives for participation**, including resources, access to and influence on governance structures.
- **Empowering EU Delegations** to engage at different levels, and with a broader set of actors by giving them a clear political mandate.



## 6. THE TOOLS IMPLEMENTING THE NEW PARTNERSHIP AND MANAGING RESOURCES

In 2000, the Cotonou Partnership Agreement (CPA) was seen to be ahead of its time for putting partner countries in the driving seat in the implementation of the partnership objectives. Long before the 2005 Paris Declaration tabled the language of “ownership, alignment, and mutual accountability”<sup>27</sup>, successive Lomé conventions had already introduced joint management of the EDF to ensure partner country ownership of the development process. This principle applies to the entire co-operation cycle, from programming, implementation to monitoring and evaluation.

**The CPA further strengthened the role of the ‘National Authorising Officers’ (NAOs)** to jointly manage EDF resources. This system is unique to the ACP-EU partnership<sup>28</sup>. The NAO, generally under the finance ministry, represents the Government in all EDF funded programmes. The idea behind these dedicated permanent structures is to ensure close coordination with EU Delegations and to share the responsibilities of programming, implementation, monitoring and evaluation, while also facilitating engagement with line ministries, parliaments and other stakeholders, including local authorities, civil society and the private sector.

**The practice of joint management however is riddled with problems**, especially in countries with weak governance and administrative systems. NAOs mainly deal with EU procedures for the preparation, submission and appraisal of development cooperation programmes, while decision-making remains largely in the hands of the EU. In some countries they are even maintained as semi-parallel structures run by costly technical assistants in order to ensure a degree of continuity and avoid

disbursement blockages. In authoritarian countries, the prerogative of co-management is often used by governments to block interventions targeting governance, democratisation and civil society. Some NAO structures are also known to be vehicles for clientelist practices by tampering with eligibility criteria, recruitment and procurement processes<sup>29</sup>.

The Commission’s impact assessment recognises many of these shortcomings and calls for a significant review of the current system in a future agreement. The ACP also calls for greater transparency and mutual accountability.

The current ACP-EU system of joint management is the product of the ‘aid ideology’ of the 1980s, whereby the Commission adopted the view that recipient countries should see EU aid resources as their ‘own money’. It also reflects the narrative of the 2005 Paris Declaration on aid effectiveness, to be primarily ensured by central government agencies.

*In the past decade, the notion of ownership has evolved dramatically. The NAO system, as a heavily centralised aid intermediary, is out-dated and no longer compatible with a more modern notion of ‘country ownership’ that goes beyond the state. It is out of tune with the profoundly multi-actor nature of development processes and increasingly at odds with the requirements of the universal Agenda 2030 and the interest-driven cooperation promoted by the EU’s Global Strategy.*

27 Paris Declaration on Aid Effectiveness: *Five Principles for Smart Aid*: <http://www.oecd.org/development/effectiveness/45827300.pdf>

28 In other partner regions (Neighbourhood, Asia, Latin America) there are also focal points in central governments to ensure ownership and facilitate coordination with the EU. Yet the system is much less formalised and restrictive for the Commission in terms of managing the resources.

29 Bossuyt, J., Keijzer, N., Medinilla, A., Tollenaere, M. De. 2016. *The future of ACP-EU relations: A political economy analysis*. (Policy Management Report 21). Maastricht: ECDPM.



## FUNDAMENTAL CHOICES

The key challenge will be to put in place a more participatory, transparent, results-oriented and accountable way to manage future EU resources under a future agreement with the ACP. The EU and ACP therefore have a fundamental choice to make. They can opt for incremental change, addressing the weaknesses of the current, state-driven implementation model from the inside out, or they can choose a transformational approach that opens the partnership up to new forms of cooperation.

### INCREMENTAL CHANGE MAY BE THE LEAST CHALLENGING OPTION

Given the state-centred nature of the upcoming negotiations, and the path dependency of ACP-EU relations in the past 40 years, it may be easier to build on what is well-known. There will be pressure from different sides to bring only minor changes to the prevailing system as reflected in the joint management approach and the NAO construction. Reforms to address the observed weaknesses of the current implementation modalities and institutional arrangements are likely to be framed in terms of capacity building and procedural simplification. This will suit those in favour of continuing the bureaucratic model of allocating and spending aid resources – as this practice is well known to the EU and ACP. It may also accommodate the core interests of the key institutions on both sides.

### A TRANSFORMATIONAL APPROACH MEANS EMBRACING A MUCH MORE COMPLEX AGENDA OF REFORMS

A transformational approach would start from the fundamental questions of power relations, access to resources and control. It would explore how to move from ‘*aid effectiveness*’ (Paris Declaration) to ‘*development effectiveness*’ (Busan), or from ‘*government ownership*’ to broader, societal ‘*country ownership*’. It calls for recalibrating the roles and responsibilities of partner countries and the EU in managing development resources (e.g. through a more strategic and discretionary use of resources in certain political situations). It equally implies a careful look at the modalities and procedures to genuinely open-up EU development cooperation or engage in multi-actor partnerships, increasingly using domestic resources and non-ODA financing.

This is an ongoing transformation in the EU’s External Action, yet is often difficult to capture in the language of ACP-EU cooperation. Solutions require more than a change in rhetoric, but a profound review of the EU’s toolbox as part of the ACP-EU partnership.





## 7. THE NEGOTIATIONS SETTING THE TERMS

The context in which the EU and ACP will start negotiations bears little resemblance to that of the late 1990s leading up to the Cotonou agreement. The traditional appeal of a privileged ACP-EU partnership is increasingly challenged by new narratives of global partnerships. At the same time, the ACP and African countries in particular have played the card of regional integration leading to a multiplication of diplomatic venues in which partner countries and the EU engage (outside the formal ACP-EU framework).

*While the ACP group of States was long the undisputed partner for the EU, now for the first time a real choice needs to be made on who will negotiate on behalf of Africa, the Caribbean and the Pacific countries and in what setting.*

Will it be the ACP group represented by the committee of ambassadors and supported by the Brussels-based ACP secretariat, or will it also be the regions, represented by their respective regional groupings, supported by their own regional institutions?

On the European side, the Commission – in coordination with the HR/VP – negotiates on behalf of EU member states, which come into the process at regular intervals. On the side of the ACP, member states are firmly in the lead, and in previous negotiations the group was represented at the ambassadorial level in Brussels with regular involvement of the political level by ACP council of ministers. Negotiations were structured thematically rather than geographically.

While the ambassadorial level is largely shared across diplomatic settings, the political direction under which ACP countries negotiate can vary if those representatives join the table in a regional or in thematic capacity. The choice of negotiating groups, and the sequencing of the process will have a significant impact on the outcome of the negotiations.

### FUNDAMENTAL CHOICES

Both the EU and ACP have stated the ambition to shift the weight of the partnership to the regions and ensure a degree of subsidiarity in ACP-EU relations beyond 2020. The key choice to make, before agreeing on a negotiating mandate, therefore is between a centralised and a decentralised process (see next page)..

	OPPORTUNITIES	TRADE-OFFS AND RISKS
<b>'CENTRALISED' NEGOTIATION PROCESS</b>	<i>A centralised process builds on Brussels-based institutions in a convenient and familiar setting and takes a similar, thematic approach as the negotiations leading up to the Cotonou agreement in 2000.</i>	<ul style="list-style-type: none"> <li>• Marginalises and alienates regional and continental organisations at the start of the process.</li> <li>• Over-reliance on ACP structures may lead to further disengagement of African Institutions and North African countries when they see no clear interest or space to join the process from the start.</li> </ul>
	<ul style="list-style-type: none"> <li>• Mitigates the risk of opposition and may facilitate the ambition of a "single legal undertaking".</li> <li>• It may also be more likely to secure certain commitments (on paper) when facilitated by the ACP.</li> </ul>	

<b>PHASED AND DECENTRALISED NEGOTIATIONS</b>	<i>Alternatively, the EU and ACP could prioritise regional partnerships by engaging regional groupings and institutions first.</i>	<ul style="list-style-type: none"> <li>• Reduces predictability and control over the negotiating setting.</li> <li>• The outcome may be different than envisaged.</li> <li>• It could prove more difficult to align on a single set of common rules in the end.</li> <li>• Regional institutions may not be well prepared and may have very different expectations than those channelled through the ACP.</li> <li>• Regional organisations may not be ready to engage in the negotiating process.</li> </ul>
	<ul style="list-style-type: none"> <li>• This means working out regional partnership principles, priorities and governance arrangements first and looking for common ground and options for a legal basis in the second place.</li> <li>• Doing so signals political will for a new deal with Africa, adding substance and resources to the partnership.</li> <li>• This might offer stronger incentives for ACP Member States to position themselves on a broader range of issues during the negotiations.</li> </ul>	

A fully centralised approach to the negotiations is unlikely to produce the desired “shift of decision-making and implementation to the regional levels”<sup>30</sup>

Going down this road could further reduce the scope for real mutual interest-driven partnerships by alienating continental and regional groupings and institutions in favour of the ACP framework that exists primarily in relation to the EU at the very start of the process.

Bringing the regions forward in the negotiations on the other hand could create the necessary momentum for stronger regional partnerships, particularly with Africa. This could also help to substantiate the ambitions of the AU-EU process by placing it front and centre in the negotiations and endowing it with critical political and financial resources. This is especially relevant if it is to be replaced by a possible future regional compact.

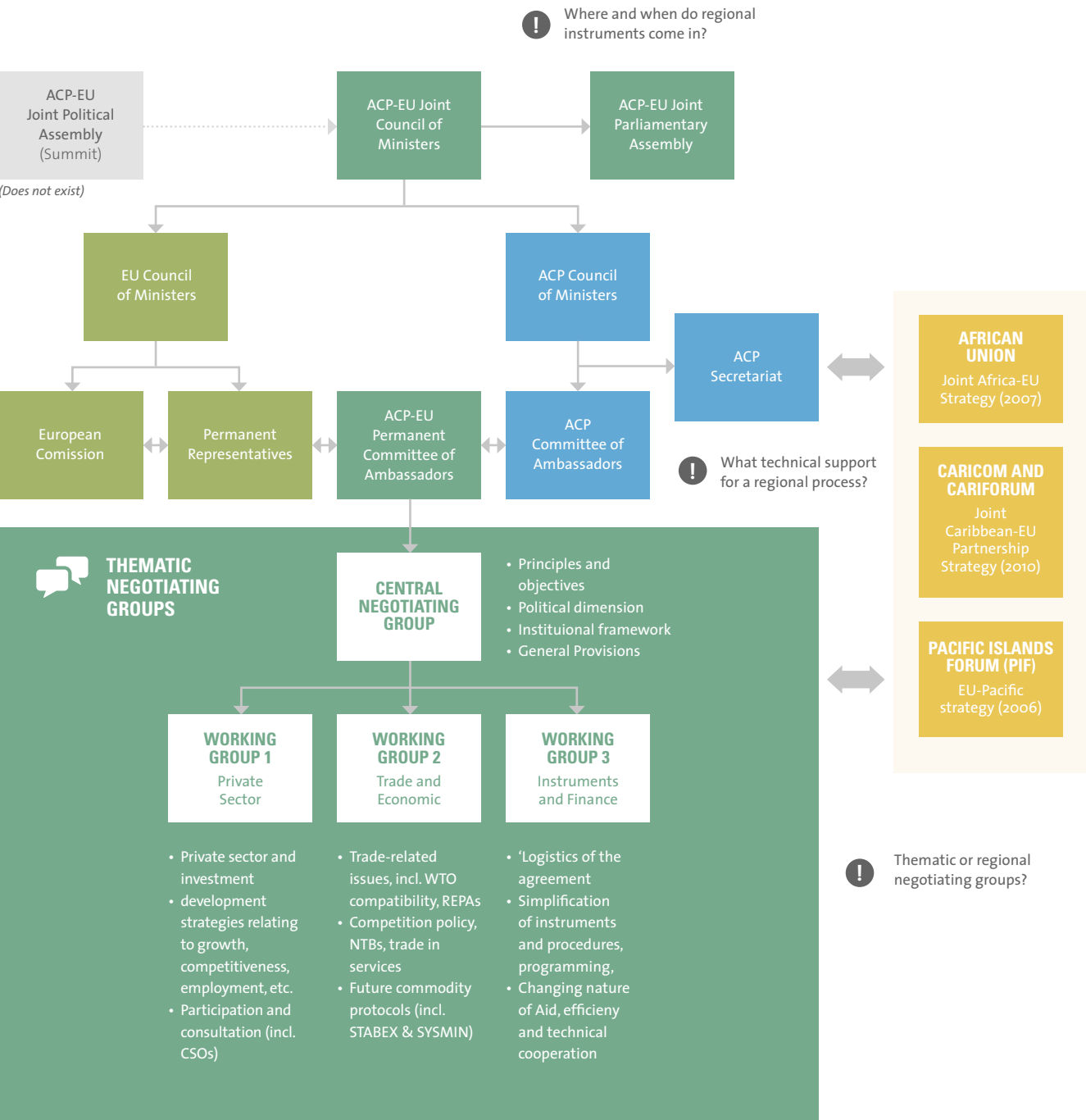
Doing so requires a clear and unambiguous vision on how to approach the negotiations and calls on the EU and ACP countries to:

- **Agree on a differentiated EU negotiating mandate**, identifying EU interests and partnership objectives and governance arrangements for each of the regional partnerships.
- **Propose to structure the negotiation process in regional, geographic negotiating groups** with sufficiently broad terms to develop distinct partnership roadmaps, including on critical components such as political dialogue, cooperation on global public goods, etc.
- **Prepare and support the role of regional institutions** to facilitate regional interest articulation, well ahead of the start of the negotiations
- **Allow sufficient space for the Caribbean and Pacific groups** in the process and provide a viable and tailor-made partnership offer.
- **Invite and incentivise North African countries’ full participation** in the process while taking into account the existing agreements with the Southern Mediterranean.
- **Based on the regional partnership talks, identify and agree on issues, principles, common rules, and priorities that can be scaled up** to an all-ACP negotiating setting.

<sup>30</sup> European Commission & HR/VP. 2016. Joint Communication: A renewed partnership with the countries of Africa, the Caribbean and the Pacific. JOIN (2016)52. p. 4.

# DECISION-MAKING STRUCTURES AND NEGOTIATING GROUPS FROM LOMÉ IVBIS TO COTONOU<sup>31</sup>

The following visual illustrates the decision-making structures and negotiating groups from Lomé to Cotonou. A key challenge for 2018 is to also reflect the regional ambitions of the partnership in the negotiating structures of a future agreement.



<sup>31</sup> Based on Van Reisen, M. 1999. EU 'Global Player': The North-South Policy of the European Union. International Books.; and Schilder, K. 2000. Background paper on the ACP-EU negotiations on the future of the Lomé Convention. WEED – World Economy, Ecology and Development Association.

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Making policies work

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