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**Making EU-Africa Relations
future-proof**

**Pérenniser les Relations
Afrique-UE**

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Making EU-Africa Relations future-proof Pérenniser les Relations Afrique-EU

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ABOUT THE FRIDAYS OF THE COMMISSION

The Fridays of the Commission is a debate forum organised by the AUC Department of Economic Affairs to provide an opportunity to African Union (AU) staff members, invited participants from member states, members of the international community, diplomatic corps, academicians and students to share in the discussions on current social, political and economic matters concerning Africa.

This forum for "give and take" was conceived to respond to the needs of the Commission, member states, African and non-African diplomats as regards the understanding of the economic, political and social problems of our times and has the following main objectives:

- Assist in the comprehension of great contemporary political, economic, social and cultural problems;
- Contribute to mastering the operations of institutions that lead the world today;
- Contribute to throwing light on economic policies and strategies proposed to African countries by international financial institutions;
- Identify major obstacles to integration in Africa and propose ways and means of going around them;
- Promote comprehension of the globalization process and its consequences for African economies.

We would like to encourage partners and interested organizations wishing to work with the AUC in organizing such seminars to please get in touch with :

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«Les Vendredis de la Commission» sont des conférences/débats trimestriels sur des problématiques sociales, politiques et économiques africains. Organisé par: le Département des Affaires économiques en collaboration avec la Division de Communication et Information.

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Foreword

LONG-STANDING AFRICA AND EUROPE DIALOGUE AND FRIENDSHIP

By H.E. Mr Erastus Mwencha,
Deputy Chairperson Commission

Africa and Europe have journeyed together since time immemorial and more so, the two continents share commonalities such as culture, language, systems, peoples and traditions. This has been deepened further by the Yaounde Convention, the Lomé Agreement and now the Cotonou Partnership Agreement, among others, which have fostered fruitful cooperation between the two continents.

From April 2000 the two continents realized that there was need to review their cooperation in order to integrate emerging challenges arising from globalization. The new dialogue which started in Cairo led to the subsequent adoption of a new cooperation framework in 2007, namely, the Joint Africa-EU Strategy (JAES), which is intended to be an overarching framework of cooperation between the two continents.

The inception of the JAES was a bold and ambitious undertaking, but nonetheless, consolidated Africa-EU relations and emphasized the strategic imperative of transforming the relationship through a common vision, goals, objectives, and the implementation of the joint strategy within a strengthened political dialogue that ought to reflect a partnership of equals.

The JAES, taken as complementary support to Africa's efforts to attaining its development and integration objectives, has opened up new avenues and opportunities for collective action for Africa and Europe's common vision.

However, more still needs to be done to ensure the partnership inculcates a paradigm shift whereby development in all its facets (private sector led investment, job creation, improved access to and delivery of social amenities) is at the epicenter of the partnership, embraces co-responsibility and mutual accountability, and fosters inclusive multi-stakeholder engagement in the conception and implementation of the partnership. While also taking into consideration the dynamic changes taking place on both continents (economically, politically and socially) that are reshaping our institutions and the development trajectory, and giving rise to common challenges (economic growth, poverty management, trade and job creation).

The 4th Africa-EU Summit was yet another opportunity for the two partners to take the necessary steps to implement the key priorities adopted by the summit to bring Africans and Europeans much closer together for the prosperity and peace of our peoples. We welcome the summit endorsement of a wide range of financing instruments and policy initiatives to implement the agreed priorities, most especially the EU's

commitment to provide more than €28 billion in addition to financial support through bilateral cooperation. I am more than confident that in the spirit of co-responsibility and ownership, Africa is also committed to the partnership, and will find ways to generate resources to co-finance the partnership.

I am certain that the African Union Commission (AUC) and the European Commission will work hand in hand to implement the roadmap adopted at the 4th EU-Africa Summit in order to ensure a stronger, more effective and visible partnership for shared growth and stability. The 4th Africa-EU Joint Declaration is a clear demonstration of the converging views that Europe and Africa as a whole share on some critical issues.

I wish to take this opportunity to recognize the support coming from the European Union to the AU organs, particularly the Commission, as well as to African member states and regional organizations through various instruments, notably;

1. €55 Million Support Programme to strengthen the capacity of the AU organs and its renewed successor programme.
2. EU support to various AUC and NEPAD flagship infrastructure programmes, including programmes under other thematic partnership areas of the Joint Strategy;
3. EU support to the RECs under the Regional Indicative Programme intended to facilitate the implementation of regional programmes;
4. EU assistance to the national budgets of many African countries through the budget support and the National Indicative Programmes;
5. Invaluable EU support in the area of peace-keeping, post conflict reconstruction, and democracy and human rights.

Finally, it is my honour to pronounce that the Fridays of the Commission is yet another forum for Africa, partners and stakeholders to share in the discussions on current social, political and economic matters. The relevance of this initiative can be seen by the success of this special session of the Fridays of the Commission organized by the AUC Department of Economic Affairs in collaboration with the European Centre for Development Policy Management (ECDPM) and JAES Support Mechanism on 28 February 2014 on the theme of "Making Africa-EU Relations Future-Proof".

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Introduction

COOPERATION AFRIQUE-EUROPE: POURQUOI FAUT-IL CHANGER DE PARADIGME ?
AFRICA-EUROPE COOPERATION: WHY A PARADIGM SHIFT?

By Dr Rene N'Guettia Kouassi,
Director of Economic Affairs
of the African Union Commission

Les relations entre l'Afrique et l'Europe remontent à la nuit des temps. Elles ont été marquées par des faits de nature diverse et variée dont le souvenir peut parfois susciter de profondes émotions. Nous taisons volontairement ces faits au risque de nous livrer à des conjectures aux contours indéfinissables. En revanche, notre souhait est d'appréhender la coopération Afrique-Europe à travers la dynamique, voire la logique qui l'a toujours soutenue des points de vue de la partie européenne. Cela nous permettra ensuite d'envisager une autre voie, synonyme d'un changement de paradigme plus promoteur.

Pour mémoire, il convient de rappeler que depuis les Conventions de Yaoundé, en passant par les accords de Lomé jusqu'aux récents accords de Cotonou, l'Europe a subordonné son assistance à l'Afrique, à l'avènement d'états de droit dans lesquels le respect des droits humains ou des droits de l'homme, la liberté d'expression, le respect des minorités, ... sont la règle et non l'exception. Autrement dit, l'Europe a, jusqu'à ce jour, cherché à aider les pays africains à devenir des terreaux de la bonne gouvernance économique et politique. Une telle logique est celle de l'occident tout entier qui soutient, mordicus, que l'état de droit et la démocratie sont un passage obligé pour accéder à la croissance et au développement. En d'autres termes, l'état de droit et la démocratie constituent une condition sine qua non pour le succès de tout processus de développement. Dès lors, l'Europe, à l'instar de tout l'occident, en a fait une contraignante condition pour le décaissement de ses engagements financiers à l'égard de l'Afrique. Mais après, près d'un demi-siècle de pratique de politique d'aide liée ou contraignante, quel bilan peut-on faire de l'exercice de l'état de droit ou de la démocratie en Afrique? Les desideratas de l'occident en général ou de l'Europe en particulier ont-ils été satisfaits? L'Afrique est-elle devenue un havre de paix? S'est-elle érigée en modèle d'état de droit ou de démocratie tant souhaité par ses partenaires européens?

A la réalité, l'on peut affirmer, sans exagérer, que l'Afrique est loin du compte au regard de l'idéal occidental qu'elle est obligée d'intégrer dans son mode de vie à son corps défendant. Exception faite de quelques rares pays, l'exercice d'état de droit ou de démocratie s'y apparente, dans la plupart des cas, à une véritable gageure. En la matière, les acquis stables et irréversibles sont extrêmement rares ;

The relationship between Africa and Europe dates back to the dawn of time. It has been marked by events of diverse and varied nature whose remembrance may sometimes arouse deep emotions. We deliberately silence these facts for fear that it may lead us to speculate on unimaginable consequences. On the other hand, our desire is to understand Africa-Europe cooperation through the dynamics, indeed, the logic that has always supported it through the viewpoints of the European side. This will then enable us to consider other ways, synonymous with a more promising paradigm shift.

For the record, it should be recalled that since the Yaoundé Conventions, through the Lomé Agreements, to the recent Cotonou Agreements, Europe has subjected its assistance to Africa to the advent of the rule of law, in which respect for human rights, freedom of expression, respect for minorities, etc. are the norm and not the exception. In other words, Europe has, so far, sought to help African countries to become a fertile ground of good economic and political governance. This logic is that of the entire Western world that adamantly believes that the rule of law and democracy are a pre-requisite to facilitate growth and development. In other words, the rule of law and democracy are a sine qua non condition for the success of any development process. Consequently, Europe, like the entire West, has made it a binding condition for the disbursement of its financial commitments to Africa. But after nearly half a century of practicing the policy of tied or binding aid, what conclusions can we draw from the exercise of the rule of law and democracy in Africa? Have the wishes of the West, in general, and of Europe, in particular, been fulfilled? Has Africa become a haven of peace? Has it become the model of the rule of law or democracy wished for by its European partners?

In reality, it may be said without exaggeration that Africa is off the mark in relation to the Western ideal that it is obliged to incorporate into its lifestyle against its will. Except for a few countries, the exercise of the rule of law or democracy is tantamount, in most cases, to a challenge. In this respect, stable and irreversible gains are extremely rare, even asserting that Africa remains committed to the logic of "perpetual beginning". If that is the case, why not

« L'Afrique apparaît comme le terreau des investissements de court terme ou des capitaux dits flottants que l'on peut rapatrier aisément au moindre bruit d'instabilité. »

faisant même dire que l'Afrique reste attachée à la logique de « perpétuels recommencements ». Si tel est le cas, pourquoi alors ne pas changer de paradigme ? Si l'Afrique piétine encore à s'installer durablement et de manière irréversible dans la posture d'un état de droit pourquoi l'Europe ne doit-elle pas changer de fusil d'épaule ? Pourquoi ne doit-elle pas arrêter de soutenir un processus dont les résultats s'apparentent à une gageure ? Autrement dit, pourquoi ne doit-elle pas changer de paradigme ?

Nous voudrions l'inviter à changer d'approche en faisant les choses autrement ou en changeant d'objectifs. Pour nous, le changement de paradigme consistera à mettre l'accent sur le développement en restructurant son aide à cette fin. Ici, le développement serait regardé comme un passage obligé, voire une condition sine qua non pour pacifier l'Afrique en y instaurant durablement, et de façon irréversible la démocratie grecque dans toute sa plénitude. Car, on ne le dira jamais assez, « là où il y a le développement, il y a la paix et l'état de droit », « là où il y a la croissance et le développement inclusifs, les jeunes ne sont pas désœuvrés et ne sont donc pas recrutés pour des aventures de tout genre ».

La nouvelle approche de coopération ouverte au Sommet Afrique-Europe tenu au Caire en avril 2000 avait laissé entrevoir un immense espoir. La stratégie conjointe y relative, adoptée au Sommet de Lisbonne, fixe un nouveau cadre de coopération fondé sur des principes de respect mutuel, de responsabilité partagée et de mutualisation des efforts dans la gouvernance des biens publics mondiaux, et dans la réforme du système des Nations-Unies ainsi que des institutions de Bretton-Woods. Mais dans la mise en œuvre de la stratégie de Lisbonne, par l'entremise de plans d'action successifs, l'on se rend compte que l'Union Européenne a du mal à se départir de la logique ancienne d'avant le Caire 2000. Chaque pays européen développe une diplomatie bilatérale avec les pays africains qui, le plus souvent, s'éloigne de la politique communautaire de l'Union Européenne. Ainsi, l'absence d'harmonisation entre les politiques bilatérales et la politique communautaire est de nature à produire plusieurs messages (souvent contradictoires) en direction de l'Afrique. Ces différents messages, voire ces différents sons de cloche ont le mérite de rendre encore plus ambiguë la diplomatie européenne à l'égard de l'Afrique.

have a paradigm shift? If Africa is still lagging behind in establishing itself permanently and irreversibly in the posture of the rule of law why should Europe not change tack? Why must it stop supporting a process whose results are similar to a challenge? In other words, why should it not have a paradigm shift?

We would like to invite Europe to change the approach by doing things differently or changing its objectives. For us, the paradigm shift would be to focus on development by restructuring its aid for this purpose. Here, development would be considered a pre-requisite, indeed a condition *sine qua non* to pacify Africa by establishing permanently and irreversibly the Greek democracy in all its fullness. For we cannot emphasize enough, that "where there is development, there is peace and the rule of law", "where there is growth and inclusive development, youths are not unemployed and therefore not recruited for adventures of all kinds".

The new approach of open cooperation in the Africa-Europe Summit, held in Cairo in April 2000, had given rise to great hope. The related Joint Strategy, adopted at the Lisbon Summit, set a new framework of cooperation based on the principles of mutual respect, shared responsibility and pooling of efforts in the governance of world public assets and the reform of the UN system and the Bretton Woods institutions. But in the implementation of the Lisbon Strategy, through successive Plans of Action, it has become clear that the European Union finds it hard to get rid of the old logic of pre-Cairo 2000. Each European country establishes bilateral diplomacy with African countries which more often distances itself from the Community policy of the European Union. Thus, the lack of harmonization between bilateral policies and Community policy is likely to convey several (often contradictory) messages to Africa. These messages, indeed, these discordant signals, make European diplomacy towards Africa ambiguous.

The first fact is that Africa desperately needs money to finance its multitude of infrastructure projects, attain the MDGs by 2015 and succeed in its economic and political integration. The financing needs of the African continent are vast. But after more than half a century of cooperation with

“Africa needs to modernize its political discourse by drawing on the virtues of modern times. To succeed, it must see Europe through a new lens.”

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Le premier constat est que l'Afrique a énormément besoin d'argent pour financer ses multitudes projets d'infrastructure, atteindre les OMD à l'horizon 2015, et réussir son intégration économique et politique. Les besoins de financement du continent africain sont extrêmement élevés. Mais après plus d'un demi-siècle de coopération avec l'Europe, l'Afrique offre l'image d'un continent qui fait du surplace dans sa quête vers le progrès et le développement. En d'autres termes, la coopération avec l'Europe, qui remonte aux Conventions de Yaoundé, n'a pas jusqu'à présent permis à l'Afrique de connaître le développement et de maîtriser son destin, afin de co-participer à la gestion des affaires planétaires. Le paradoxe ici, c'est que l'Europe est extrêmement riche, sans toutefois parvenir à aider convenablement ses partenaires africains à sortir de la pauvreté. Ce deuxième constat tient au fait que l'Europe détient une pléthore d'instruments financiers (bilatéraux et communautaires) destinés à l'Afrique. Chacun de ces instruments est doté d'enveloppes substantielles. Mais là où le bât blesse, c'est que l'accès à ces fonds est extrêmement difficile. Cette contrainte en termes d'accès aux Fonds européens est expliquée, côté européen, par la faible capacité d'absorption des pays africains et, côté africain, par la complexité des procédures d'accès et de justification de l'utilisation des fonds. Ainsi, les Fonds européens de Développement (FED) se succèdent sans que les enveloppes y afférentes soient totalement consommées.

En outre, l'Afrique est encore l'objet de trois différents accords avec l'UE, la divisant donc en trois espaces géographiques. Et ce, en dépit d'un des principes majeurs de la nouvelle stratégie conjointe qui suggère en lettres d'or que l'UE traite l'Afrique comme une seule entité.

- i. L'Afrique du Nord, qui bénéficie de l'instrument financier MEDA (Mediterranean Economic Development Area), remplacé depuis 2007 par l'ENPI (European Neighbourhood and Partnership Instrument);*
- ii. L'Afrique au Sud du Sahara (exception faite de l'Afrique du Sud), qui bénéficie des instruments financiers issus des Accords de Cotonou;*
- iii. L'Afrique du Sud, qui bénéficie de l'ACDC (Accord sur le commerce, le développement et la coopération), aux côtés de l'Asie et de l'Amérique latine.*

Europe, Africa appears to be a continent that has stalled in its quest for progress and development. In other words, cooperation with Europe, dating back to the Yaoundé Conventions, has so far not enabled Africa to develop and master its destiny, to co-participate in the management of world affairs. The paradox here is that Europe is extremely rich, but has failed to properly assist its African partners to emerge from poverty. The second fact is that Europe has a plethora of financial instruments (bilateral and Community) to support Africa. Each of these instruments has substantial budgetary envelopes. Where the problem lies is that access to these funds is extremely difficult. This constraint of access to European funds is explained, by the Europeans, as the low absorption capacity of African countries and on the African side by the complexity of the access procedures and justification of the use of the funds. Thus, the European Development Fund (EDF) succeeds without the related budgets being fully disbursed.

Furthermore, Africa still has three different agreements with the EU, thus dividing it into three geographical areas, in spite of the key principles of the new Joint Strategy which in sacred terms state that the EU treats Africa as a single entity.

- i. North Africa has the Mediterranean Economic Development Area (MEDA) financial instrument, replaced in 2007 by the European Neighbourhood and Partnership Instrument (ENPI);
- ii. Africa, South of the Sahara (excluding South Africa), has financial instruments arising from the Cotonou Agreement;
- iii. South Africa has the TDCA (Trade, Development and Cooperation Agreement), along with Asia and Latin America.

This attempt at geographical division is compounded by the Economic Partnership Agreements (EPAs), whose implementation is highly detrimental to regional integration efforts in the geographical area covered by the Cotonou Agreement.

Consequently, it is a bitter irony to see Africa still portrayed in the European media in images evoking misery, epidemics,

“Africa appears to be the ground for short-term investments or so-called “floating capital” that can be easily repatriated at the slightest hint of instability.”

À cette tentative de charcutage géographique, vient se greffer les Accords de Partenariat économique (APE) dont la mise en œuvre porte un énorme préjudice aux efforts régionaux d'intégration dans la zone géographique couverte par les Accords de Cotonou.

Aussi, est-il amer de constater que l'Afrique apparaît toujours dans les médias européens à travers des images rappelant la misère, les épidémies, les endémies et les conflits. Cette image négative de l'Afrique persiste toujours malgré les nombreux appels invitant à les améliorer.

Enfin, les opérateurs, voire les acteurs économiques européens continuent de regarder l'Afrique comme un continent à risque. Dans cette perspective, ils n'y orientent pas les capitaux ou les investissements de long terme dont elle a besoin. Ainsi, l'Afrique apparaît comme le terreau des investissements de court terme ou des capitaux dits flottants que l'on peut rapatrier aisément au moindre bruit d'instabilité. Cette tendance persistante à investir « sur la pointe des pieds » fait que les acteurs économiques européens ne parviennent pas à capter ou à fidéliser la classe moyenne montante africaine à l'égard de leur production ou de leurs marques. Le soutien à la mise en œuvre des projets et programmes intégrateurs de l'Afrique devait être du cœur de la coopération européenne avec l'Afrique. Investir massivement dans le développement de l'Afrique c'est contribuer à extraire les populations africaines de la pauvreté et de la misère, et de facto, c'est de les mettre à l'abri de toutes vellétés tribalistes, voire ethnocentriques porteuses d'ingrédients potentiels d'instabilité de tout acabit.

Hier, la Plan Marshall d'un montant d'environ 13 milliards de dollars a aidé les pays d'Europe occidentale à réhabiliter leurs infrastructures au lendemain de la deuxième guerre mondiale. Aujourd'hui, l'Europe qui reste fortement et solidement attachée à l'Afrique du fait, entre autres, des affinités culturelles et linguistiques, et surtout du fait de la proximité géographique des deux continents (seulement 12 kilomètres les séparent) ; et qui plus est plus nantie de tout point de vue, a l'obligation morale d'accompagner l'Afrique dans sa transformation économique et politique. Car, il est de plus en plus difficile à comprendre que l'Afrique ne bénéficie pas encore, de ce que les économistes appellent,

endemic disease and conflicts. This negative image of Africa persists despite the numerous calls to improve it.

Finally, the European economic operators, indeed, actors, continue to look on Africa as a risk continent. In this perspective, they do not direct towards Africa their capital or long-term investment that it needs. Thus, Africa appears to be the place for short-term investments or so-called “floating capital” that can be easily repatriated at the slightest hint of instability. This continuing trend to invest “on tiptoe” results in the fact that European economic actors fail to attract or increase the loyalty of the rising African middle class to their products or brands. Support for the execution of integration projects and programmes in Africa should be at the heart of European cooperation with Africa. To invest heavily in the development of Africa is to contribute to lifting the African people out of poverty and destitution and, de facto, shelter them from all tribalist, indeed, ethnocentric inclinations, harbingers of the ingredients of potential instability of all kinds.

Yesterday, the Marshall Plan to the tune of approximately US\$ 13 billion helped Western European countries to rehabilitate their infrastructure after the Second World War. Today, Europe, which is strongly and firmly committed to Africa because of cultural and linguistic ties, because of the geographical proximity of the two continents (with only 12 kms separating them) and especially, from any point of view, is the more affluent - has a moral obligation to support Africa in its economic and political transformation. It is increasingly difficult to understand that Africa does not yet enjoy what economists call the “positive externalities” as a result of its geographical proximity to Europe. European efforts to support Africa to accelerate towards prosperity could be solutions to the acute economic and social crisis that marks Europe. Consequently, to help Africa transform by investing heavily in projects with high added value must, today, be the mainstay of European cooperation. This is a paradigm shift that will ultimately prove to be a “win-win” for the people of the two continents. To persist in what is done today is to ignore the realities of the moment and will lead to a dead end that will, undoubtedly, create an excuse to drift away from the partnership with Europe which once promised a better future. To be in close touch with current affairs, Africa

“The Africa- Europe dialogue must, therefore, be constantly nurtured on the basis of truth, without which all expectations raised will be little more than a pipe dream.”

7

les externalités positives du fait de sa proximité géographique avec l'Europe. Les tentatives européennes à accompagner l'Afrique à accélérer à l'opulence, peuvent être des solutions à la crise économique et sociale aigüe qui caractérise l'Europe. Aider donc l'Afrique à se transformer profondément en investissant massivement dans les projets à grande valeur ajoutée doit, aujourd'hui constituer le cheval de bataille de la coopération européenne. Cela s'appelle un changement de paradigme qui, à terme, s'avérera « gagnant-gagnant » pour les populations de deux continents. Persister dans ce qui se fait aujourd'hui, c'est ignorer les réalités du moment et s'affirmer dans une voie sans issue qui servira, sans nul doute, de prétexte à s'éloigner du partenariat avec l'Europe qui pourtant promettait de lendemains meilleurs. Pour coller à l'actualité, l'Afrique peut même offrir à l'Europe une alternative énergétique crédible.

L'Afrique, de son côté, doit faciliter cette mutation de paradigme. Pour cela, elle doit reformer profondément ses économies pour un usage optimal et rationnel de l'aide reçue de l'Europe. Aussi doit-elle opérer sa mue dans sa perception de son passé avec l'Europe. Certes, elle a subi le double effet de l'esclavage et de la colonisation. Mais elle doit se départir de ce passé, fut-il douloureux et catastrophique, pour se focaliser sur son émancipation économique. Ce passé ne doit pas la rendre apathique à l'égard de son présent et de son futur. Dès lors, ce passé ne doit pas être considéré comme un boulet au pied bloquant et paralysant. Sous d'autres cieux, ce type de passé a été dompté et transformé en opportunités de croissance et de développement. Pourquoi l'Afrique ne parviendrait-elle pas à son tour à le faire ?

Par ailleurs, dans l'esquisse d'ériger l'handicap du passé en véritables facteurs de développement, l'Afrique doit moderniser son discours politique en puisant dans les vertus des temps modernes. Pour y parvenir, elle doit regarder l'Europe avec de nouvelles lunettes.

Celle-ci ne doit plus être regardée comme berceau des colonisateurs, des exploiters, des méchants qui n'ont d'yeux pour l'Afrique que pour l'immensité de ses ressources naturelles. A contrario, l'Afrique doit regarder l'Europe comme un partenaire crédible qui peut l'accompagner dans son processus de développement en lui apportant ce qui lui fait

could even offer Europe a credible energy alternative. Africa, in turn, should facilitate this paradigm shift. For this purpose, it must extensively reform its economies for optimum and rational use of the assistance received from Europe. And it needs to undertake its transformation in the context of its history with Europe. Indeed, it suffered the double impact of slavery and colonization. But it has to break with the past, even though it was painful and disastrous, to focus on its economic emancipation. The past should not make it apathetic towards its present and future. This past should not be seen as a millstone around its neck, blocking and crippling it. Elsewhere, a past of this nature has been tamed and transformed into growth and development opportunities. Why should Africa in turn not be able to do the same?

Furthermore, in the effort to transform the handicap of the past into real factors of development, Africa needs to modernize its political discourse by drawing on the virtues of modern times. To succeed, it must see Europe through a new lens. It should no longer be regarded as the cradle of the colonisers, exploiters, villains who have eyes on Africa only for its immense natural resources. Africa must instead see Europe as a credible partner that can support its development process by providing it with what it needs. Yesterday the founding fathers of contemporary Africa strove to liberate Africa from the colonial yoke with the means of their time and based on the discourse of pan-Africanism. Today, Africa must win the battle for its economic and social emancipation. Consequently, it must use the weapons of the moment and modernize its political discourse to align with its youth living in the era of the third industrial revolution, dominated by the new information and communication technologies. To view Europe differently could, therefore, help to establish a new relationship of trust likely to enhance cooperation and make it more successful.

Similarly, it should be noted that the absence of political integration in Africa has impeded cooperation with Europe. Stressing the sovereignty of states did not favour the emergence of an Africa speaking with one voice and walking at the same pace. The cacophony that emerged rather sowed the seeds of division, an “everyone for himself” reflex, “withdrawal” and nationalism. Thus, in the negotiations with European partners, Africa presented itself

“What are you Africans doing to enable the EU to treat your continent as a single entity?”

défaut. Hier les Pères fondateurs de l'Afrique contemporaine se sont évertués à libérer l'Afrique du joug colonial en utilisant les moyens de leur époque et en s'appuyant sur le discours du Panafricanisme. Aujourd'hui, l'Afrique doit gagner la bataille de son émancipation économique et sociale. Par conséquent, elle doit utiliser les armes du moment et moderniser son discours politique pour être en adhésion avec sa jeunesse qui vit sous l'ère de la troisième révolution industrielle dominée par les nouvelles technologies de l'information et de la communication. Regarder l'Europe autrement, pourrait donc contribuer à asseoir une nouvelle relation de confiance de nature à renforcer la coopération en la rendant plus fructueuse.

De même, il convient de noter que l'absence d'intégration politique en Afrique a handicapé la coopération avec l'Europe. La mise en avant de la souveraineté des États n'a pas favorisé l'avènement d'une Afrique parlant d'une seule voix et marchant d'un même pas. La cacophonie qui s'en est dégagée a plutôt fait le lit de la division, des réflexes du « chacun pour soi », du « repli sur soi » et du nationalisme. Ainsi, dans les négociations avec les partenaires européens, l'Afrique s'est présentée divisée, chaque pays ou chaque région cherchant à ne défendre que ses intérêts nationaux ou régionaux. A chaque fois, toutes les déclarations de bonne intention d'intégration exprimées dans les traités ou chartes ont été foulées au pied au bénéfice des intérêts propres des États. Cette inclination à l'individualisme explique en partie l'inefficacité de la coopération avec l'Europe, d'autant qu'elle empêche l'Afrique de présenter un front commun et de peser réellement dans les négociations –voire d'avoir une véritable capacité de négociation–. Elle engendre des difficultés pour se faire respecter, pour forcer l'Europe à tenir ses engagements, et pour orienter le dialogue avec l'Europe en sa faveur. Une telle situation offre à l'Europe l'image d'une Afrique divisée, d'une Afrique où ne comptent que les intérêts souverains des États, d'une Afrique manipulable à souhait, d'une Afrique où l'on peut opposer facilement les pays les uns contre les autres, d'une Afrique enfin où la division est la règle et l'unité l'exception.

Aux nombreux appels pour traiter l'Afrique comme une seule entité, comme le stipule la Stratégie conjointe, les Européens

dividés avec chaque pays ou région cherchant à défendre ses propres intérêts nationaux ou régionaux. Chaque fois, toutes les déclarations de bonne intention sur l'intégration exprimées dans les traités et chartes ont été foulées au pied au profit des intérêts des États. Cette inclination vers l'individualisme explique en partie l'inefficacité de la coopération avec l'Europe, surtout car elle empêche l'Afrique de présenter un front commun et d'avoir une réelle capacité de négociation. Elle crée des difficultés pour se faire respecter, pour obliger l'Europe à tenir ses engagements, et pour orienter le dialogue avec l'Europe à son avantage. Une telle situation offre à l'Europe l'image d'une Afrique divisée, d'une Afrique où seuls comptent les intérêts souverains des États, d'une Afrique manipulable à volonté, d'une Afrique où l'on peut opposer facilement les pays les uns contre les autres, d'une Afrique enfin où la division est la règle et l'unité l'exception.

Malgré les nombreux appels à traiter l'Afrique comme une seule entité, les Européens répondent par : « Que faites-vous, vous Africains, pour permettre à l'UE de traiter votre continent comme une seule entité ? » En fait, aucune mesure concrète n'a été prise du côté africain en faveur de l'harmonisation des instruments de coopération européenne. Au contraire, chaque zone géographique se complaît dans la situation imposée et défend jalousement ses gains au détriment de l'intégration africaine, de sa cohérence et de l'efficacité de l'aide européenne.

Enfin, il est indéniable que l'Afrique et l'Europe doivent maintenir leur coopération de manière durable et soutenue. La proximité géographique et d'autres facteurs l'exigent. Dans cette perspective, les principes de respect mutuel, de responsabilité partagée et d'une vision commune de la gouvernance des biens publics internationaux doivent constamment guider cette coopération. De même, il ne doit y avoir aucune tabou dans les relations Afrique-Europe. Toutes les questions doivent être abordées avec pleine transparence, franchement et sans aucune arrière-pensée, conformément à la maxime, « l'amitié prospère dans la vérité ». Le dialogue Afrique-Europe doit, par conséquent, être constamment nourri sur la base de la vérité, sans laquelle toutes les attentes élevées ne seront que le rêve d'un pipeau.

Hier, l'Europe savait ce qu'elle faisait en Afrique. Aujourd'hui, elle le sait. Demain, elle le saura, déjà,

répondent en ces termes : « que faites-vous, vous, Africains pour que l'UE traite votre continent comme une seule entité? ». Effectivement, aucune démarche concrète n'est engagée, côté africain, allant dans le sens de l'harmonisation des instruments européens de coopération. Loin s'en faut, chaque zone géographique se complaît dans la situation imposée et défend jalousement ses acquis aux dépens de l'intégration africaine, et au détriment de la cohérence et de l'efficacité de l'aide européenne.

Finalement, il est indéniable que l'Afrique et l'Europe doivent entretenir leur coopération de manière durable et soutenue. La proximité géographique ainsi que plusieurs autres facteurs les y obligent. Dans cette perspective, les principes de respect mutuel, de responsabilité partagée, et de vision partagée dans la gouvernance des biens publics internationaux, doivent guider constamment cette coopération. De même, il ne doit y avoir aucun sujet tabou au sein des relations Afrique-Europe. Toutes les questions doivent être traitées dans une transparence totale, sans arrière-pensée et en toute franchise. Selon l'adage, l'amitié se nourrit de vérité. Le dialogue Afrique-Europe doit donc se nourrir en permanence de vérité sans laquelle les attentes suscitées s'apparenteront à des chimères

Hier l'Europe savait ce qu'elle faisait en Afrique. Aujourd'hui, elle sait ce qu'elle fait en Afrique. Demain, elle sait déjà ce qu'elle fera en Afrique. Quant à l'Afrique, elle est toujours engluée dans les interrogations interminables sur l'intérêt et le contenu de sa coopération avec l'Europe dans une atmosphère de « chacun pour soi ». Cela doit changer afin de contraindre l'Europe à modifier les fondamentaux de sa coopération avec elle dans une dynamique « gagnant-gagnant » expurgée de part et d'autre, de toutes autres considérations sujettes à interprétations négatives. 🌍

what it will do in Africa. As for Africa, it is still entangled in unending questions about the benefit and nature of its cooperation with Europe in an atmosphere of “every man for himself”. This has to change in order to force Europe to modify the fundamentals of its cooperation with Africa to create a “win-win” dynamic, devoid, on both sides, of all considerations open to negative interpretation. 🌍





Introduction

By Geert Laporte,
Deputy Director ECDPM

Every time an Africa-EU heads of state summit is organized, there is a revival of interest in Africa-EU relations. This happened in 2000, 2007 and 2010 during the Cairo, Lisbon and Tripoli summits, respectively. In preparation for the 4th Africa-EU summit in Brussels in April 2014, civil society, business operators, youth organizations and national, regional and continental organizations on both continents launched several initiatives to assess and discuss the state of the Africa-EU Partnership.

One of these preparatory events was a special session of the Fridays of the Commission in Addis Ababa, held on 28 February 2014. As an independent foundation and “think-and-do tank”, the European Centre for Development Policy management (ECDPM) was particularly happy to co-organize this event with the African Union Commission (AUC), with whom ECDPM has long-standing cooperation dating back to the early days of the AU, in 2002.

During a full day, both African and European delegates, policymakers and experts engaged in an open and constructive policy dialogue on some of the most delicate issues in the EU-Africa Partnership. The interesting mix of participants and the frankness of the discussions allowed for a constructive debate on how to adapt the partnership to the dramatic changes that have taken place at global, European and African levels since the adoption of the Joint Africa-EU Strategy in 2007.

It clearly emerged from the discussions that the balance of power between both continents is gradually shifting. This clearly has an impact on the way the two continents interact with each other. With the diversification of its partnerships, Africa seems to be ready to regain control of its own future and to change the terms of the various strategic partnerships with traditional and new partners. This should inspire Africa to develop a more business-like relationship with Europe that still remains a very important, if not the most important, partner of Africa.

Both continents are in search of new recipes for effective cooperation, hopefully combining the new African assertiveness with an increasing European respect for African ownership of its own reform processes. This

could contribute to a different, more balanced partnership between Europe and Africa, based on real common interests and agendas.

The proof of the pudding is in the eating. It is therefore essential that after the summit and in-between summits both continents continue their efforts to strengthen a solid partnership between equal partners. In the coming years we are committed to further play our role as a non-partisan sounding board and broker of enhanced Africa-EU relations.

We are particularly grateful to the very committed staff of the Department of Economic Affairs of the AUC and the Support Mechanism of the Africa-EU Partnership facility in Addis for the effective, very open and friendly cooperation.





Introduction

By Mwila Kamwela
Technical Assistant – JAES SM

The dynamics of the relations between Africa and the European Union (EU) are changing as the world becomes increasingly globalized. The geometry of the partnership and the coalition required to address persisting challenges vary according to the issues at stake and the recent 4th Africa-EU Summit provided yet another opportunity for the two sides to continue the dialogue on some of the important issues.

The summit held in Cairo in 2000 marked an historic moment for Africa-EU relations. The first EU-Africa Cairo Summit set in motion a more structured continent-to-continent political dialogue between African states and the EU around four priority areas. While there was increasing convergence of interests between the two parties, in the years following the summit practical implementation ran into difficulties due to differences between the EU and African states with regard to the primacy given to the identified priority areas¹.

The difficulties were protracted due to a number of changes affecting both the EU and Africa. On the European Union side there was a shift on the deepening of the European integration, the development of a Common Foreign and Security Policy and the subsequent push for a European Security and Defence Policy; and on the African side NEPAD was launched in 2001, the OAU was transformed into the African Union in 2002, with a subsequent reinforcement of trends towards greater regional integration and pan-African cooperation becoming more evident.

It may be recalled that in an attempt to address all these challenges, the EU developed its own strategy for Africa in 2005, predicated on three central

assumptions. However, this strategy was heavily criticised by the key African players because it was developed without sufficient consultation and retained elements of a traditional, unilateral donor-client approach.

2007 therefore represented a turnaround. The two sides decided to strengthen their ties based on agreed principles and values endorsed in the Joint Africa-EU Strategy. For the first time, Africa and the EU adopted an overarching framework pitched as a partnership of equals, which until now, political leaders have fully supported.

But up until the fall of 2014, it seemed the Africa-EU so called “marriage” was at the point of breaking down - with both sides screaming at each other over the “breakfast table”. The 4th Africa-EU Summit however, brought a new twist to the relationship. It demonstrated that both side are willing to reconcile and take their relationship to a whole new level. If their renewal of vows is to be made meaningful, nonetheless, determined action needs to be taken immediately. Below a few ideas are set out on how this could be achieved, with each side playing its respective role:

First and foremost, there must be better coordination of the partnership as well as assessment of its success: the African Union Commission

(AUC), in this case together with the EU Commission, should play its coordination role to ensure all stakeholders including other AU Organs, AU Agencies, etc. are on the same wave length on issues concerning the partnership, and ensure that all the stakeholders are well assimilated into the partnership. The key criteria in building Africa-EU Partnership relations should include defining responsibilities with regard to the management of the partnership; stimulating and organising specific tasks, as well as developing and steering the implementation of joint projects. In addition to allocating adequate and suitable human resource to the functions of the partnership, there is need to be open to ideas and suggestions or even complaints, as well as ensuring there is a proactive information policy, while maintaining transparency of the activities, decisions and developments at all levels.

The private sector, in partnership with government, has to play a greater role in driving this partnership in order to foster economic growth and development². Africa has showed renewed interest in attracting investors. To its credit, Africa now realizes the exposure of relying too much on traditional sources of revenue, such as aid flows, and has therefore unveiled new policies to revive agriculture,



diversify export products and markets to stimulate investment opportunities and diversify its revenues. The African Union is in the process of launching a Pan-African Investment Code (PAIC) on which basis, member states are to be encouraged within the framework of the partnership to introduce coherent policies and relax some of its business restrictions and investment laws in potential sectors, in order to attract more investors.

But this is not a responsibility that the EU and Africa should shoulder alone. A dip in European economic fortunes, as well as the global levelling should force these two partners to rethink how to navigate relations with the outside world to yield the best results for a win-win partnership. For instance, since the 1990s, China has grown to be the second largest recipient of the world's investment capital and its economy has become increasingly international with foreign trade and investment as significant factors in its rapid economic growth³. Undoubtedly, this identifies China as a relevant player and calls for strengthening the trilateral relations between Africa, the EU and other emerging economies, like China. As EU Commissioner Louis Michel once said, "Beijing should be made a partner in promoting effective development", which means that instead of grumbling about China's presence in Africa, the three can and should enter into dialogue on development and capitalize on what the trade giants can bring to the table: (i.e. trade, interest-free loans, economic and social development,

student scholarships, etc.) alongside what the JAES has to offer. Notably, the trilateral partnership in the area of development is probably an initiative that Africa could champion.

In an effort to support Africa's development programmes, however, the issue of governance, an area in which the EU is knowledgeable and takes an avid interest, should be prominent. In my own judgment, the focus should be on the Africa Peer Review Mechanism (APRM), a model that is not well known but well regarded due to its uniqueness and powerfulness. The APRM is a model that allows us to embrace the notion of governance in a way that it admits the interaction of various constituencies. African countries should be encouraged to accede to and lead this process. It is slow, it is not confrontational but for a country that does it right, it could be the means through which the international community, particularly the EU, provides support its development programmes within the framework of the JAES.

The renewed "marriage vows" have global issues (including global governance challenges, such as climate, tax, cybercrime, transnational criminality, illicit financial flows, universal jurisdiction, etc.) at the epicentre of the partnership. Granted, the Africa-EU Partnership can be viewed as a means to build relationships to generate a collaborative environment in multilateral fora. While it is true that the Africa-EU Partnership is not even ranked among the EU's top five strategic

partnerships, it is a given fact that a "common voice" in multilateral fora is a strength for the EU,⁴ particularly on issues regarding climate change, the Post-2015 Development Agenda, etc. and hence the EU's interest in this area. Nonetheless, while the new institutional arrangements favour streamlining political dialogue within multilateral fora (i.e. UN fora), there is need to explore ways to continue this much needed dialogue at the bilateral level (i.e. between Africa and the EU) using the appropriate toolkit for the various policy areas.

Finally, non-state actors, including civil society, have the potential to bring a multi-dimensional scope to the partnership in a variety of sectors. In this regard, our civil society should be active in advocacy in order to dispel negative sentiments about the partnership and put things into perspective. Likewise, the diaspora component should be strengthened in order to capture its full potential on remittances.

I do not believe that this is the time to insist on equal footing in the partnership. Someone once said, a marriage of equals brings catastrophe and never works. But I do believe that the Africa-EU "marriage" should be one where each of the "marriage partners" complements the other and reflects a philosophy of consensus and collaboration through concrete action on the basis of the roadmap adopted at the recently ended 4th EU-Africa Summit, in tune with the Pan-Africa Programme. The JAES has remained an abstraction because ordinary

people have not come to know what the partnership has achieved or rather its potential. In this regard, public information is key: but should be based on the principles of reciprocity, trust, and joint narratives, in order to prevent tensions and promote cooperation between the partners. This is precisely what the participants at the dedicated Fridays of the Commission meeting on the theme of Making Africa-EU Relations Future-Proof have strongly advocated for. 🌍

End Notes

1. Jack Mangala, *Africa and the European Union: A Strategic Partnership* (New York: Palgrave Macmillan, 2013).
2. Fourth EU-Africa Summit 2-3 April 2014 Brussels Declaration.
3. EU, China and Africa: A trilateral partnership in theory, a bilateral one in practice?
4. EU Development Cooperation. Where have we got to, what is next? ODI report on a conference for EU change makers, 24-25 June 2013.

In order to press forward the interests of both sides (Africa and the EU), the JAES Support Mechanism was set up to support on a demand-driven basis the functioning of the JAES thematic partnerships and facilitate the engagement of non-state actors, as well as aid the preparation of bankable programmes (for example, through the feasibility studies and other programme-preparation activities, and to address implementation difficulties), including providing the necessary technical, administrative and secretarial support for the implementation of JAES Action Plans. Within this framework, the JAES SM supported the AU in preparation of the Fridays of the Commission.



Group photo of the Fridays of the Commission taken on 28 February 2014 at the headquarters of the African Union, Addis Ababa, Ethiopia.







EXECUTIVE SUMMARY

Making Africa-EU Relations Future-Proof

Flash report on a Special Session
of the Fridays of the Commission
held at AUC,
on 28 February 2014

The Department of Economic Affairs of the African Union Commission (AUC) in collaboration with the European Centre for Development Policy Management (ECDPM) organized a special session of the Fridays of the Commission on the theme: Making Africa-EU Relations Future-Proof. The seminar was co-supported by the JAES Support Mechanism, which is a mechanism put in place to support the implementation of the JAES Action Plan.

The seminar afforded an opportunity to several participants (Addis Ababa-based diplomats, students, AUC Staff, PRC members, etc.) to examine some of the key strategic questions on the partnership in all its complexity through open debate, with a clear understanding that the relationship between Africa and Europe can be discussed frankly, including on delicate topics, in order to contribute to a better understanding of the cooperation - especially as we head to the Summit in April. The sessions were broadcast live on: <http://au.int/livestream>

The speakers included: American-based Professor Jack Mangala, author of the book *Africa and the European Union: A Strategic Partnership* (Palgrave, 2013); Zambian (South African based) Professor of Human Rights Law, Michelo Hansungula; Ambassador John Shinkaiye, seasoned Nigerian diplomat and former Chief of Staff of the AU Commission; and many more eminent speakers.

Session 1: Retrospective: Africa-EU relations over the last 10 years and the state-of-play of the JAES

The EU is never going to apologise for defending human rights i.e. the rights of sexual minorities, a matter on which there is no universal African voice...and Africa insists that values and rights cannot be the same for all people Africa has its own values and these should be respected. On the other hand, the EU sees itself as the hub for values and Africa is only there to import these norms.....Unless mind-sets change, the partnership cannot work...

- Key challenge is: failure to distinguish between political and technical challenges; the issue is about political will to move the process;
- Changing mind-set is organic: cannot be a mutual process. Maybe Africa can start and EU will follow suit;
- EPAs: bone of contention: some say it's been a catastrophic disaster and lacks political resolve;
- Fatigue: EU not consistent in applying conditionalities;
- Africa finds it difficult to speak with one voice: African states have different policies;
- Africa remains highly dependent on financial aid from the EU;
- Need for high level political dialogue, but certain areas can be explained better;
- The idea is not to put everything on the table at once;
- Relationship is much bigger than aid and extends to people to people;



- Perceptions: EU citizens think of Africa in terms of crises while Africa looks on Europe as colonial powers: far removed from total truth, hence changing the paradigm is key. At many levels there is experience available;
- Africa must use the Summit to be forthright and address those few issues that can have an impact.

Session 2: Improving political dialogue to address contentious issues: the case of the International Criminal Court (ICC)

Recommend that the ICC be included on the agenda of the Summit: decision could help to address to some extent the rocky relationship between the two... engagement with the EU is political; discretionary decisions require knowledge of where each other is coming from...at the highest level.

- Some 80% of selected Pretoria students say that the ICC is targeting Africans while only 20% think that African States should pull out of the ICC and 50% think Africa should increase the jurisdiction of the ACHPR and use own resources to strengthen own judicial structures;
- African States could consider withdrawal from the ICC if they feel they are being targeted;
- Analysis of ICC and Africa relationship should begin from the discourse or concept of international justice and from a much broader context: particularly attempts within the continent itself to address human rights, governance and perennial issues of accountability;
- Although the topic is controversial it is important to be discussed within the framework of the partnership: to disseminate information and raise awareness about ICC issues in the framework of international justice;
- Topic also relevant to convey disappointment to EU on the outcome of the UN PSC; no strong echo from EU side.

Session 3: Making Africa-EU relations future-proof

Perceptions need to be managed; Africa and Europe are like the teeth and tongue in the same mouth - they need to cooperate in the same space no matter what the situation!

- Both Africa and EU must agree on priorities and mechanisms. Africa has proposed 5, EU proposes 3 – the content of both could be a matter of interpretation: African side puts emphasis on development, EU places emphasis on governance and democracy : we need both;
- Mechanisms have been criticised: so work it better and fund it better: both sides should agree on how to manage these together;
- Both sides must make efforts to implement what they agree to: uniform application of policy and practice: not to say the same is the same for all;



- Partnership should be made more relevant to both populations;
- Need for involvement of CSOs and private sector;
- Respect for each other's values and practices: e.g. issue of gay rights;
- Agree to disagree;
- Africa must take its own engagements very seriously, and be prepared to engage with the EU. EU is well financed, so Africa should take note of its shortcomings;
- EU must not allow its own values to drive the process of the partnership;
- Clarify the issue in the slogan: 2 unions and 1 vision;
- Future relations: opportunity available for the EU.



*The Fridays of the Commission is a debate forum organised by the AUC Department of Economic Affairs to provide an opportunity to African Union (AU) staff members, African member states, members of the international community, diplomatic corps, academics and students to share in the discussions on current social, political and economic matters concerning Africa. We would like to call upon all partners and interested organizations wishing to work with the AUC in organizing such seminar to please get in touch with Mr Yeo Dossina on DossinaY@africa-union.org
Tel: +251 115 18265.*

Profiles of the discussants and key speakers

René N'Guettia Kouassi, initiator and organizer of the Fridays of the Commission

« L'Afrique et L'Europe ont l'obligation morale de s'inscrire dans la logique d'un partenariat Gagnant- Gagnant »

Dr René Kouassi N'Guettia, an Ivorian national, holds a PhD in Economics (PhD) awarded in October 1995 by the University of Versailles, France, with high honours and the congratulations of the examining jury; along with a doctorate in Development Economics awarded in February 1985 by the University of Auvergne (Clermont- Ferrand I, France). He also holds a Post Graduate Diploma (DEA) in Physical Planning obtained in June 1983 at the University of Clermont-Ferrand II, France. He received the Award of Excellence Aupelf/Uref (in the francophone area) for the academic year 1993-1994 from the Faculty of Economics and Social Sciences of Lille I, France.

Currently he is Director of the Department of Economic Affairs of the Commission of the African Union, a post he has held since July 2004. Dr Kouassi previously and successively held the functions of Deputy Chief of Staff to the Secretary General of the Organisation of African Unity (OAU), Dr Salim Ahmed Salim and Chief of Cabinet of the Interim Chairperson of the Commission of the African Union, Mr Amara Essy.

In addition, Dr Kouassi is the initiator and organizer of the Congress of African Economists, and the initiator and Editor-in-Chief of the African Journal of Integration and Development (RAID).

Before that he was a lecturer and researcher, holding the position of Senior Lecturer, in the Faculty of Economics at the University of Cocody, Abidjan, from October 1985 to December 1997. He was appointed Senior Lecturer at the African and Malagasy Council for Higher Education (CAMES) in July 1993. He was a student at the same university from 1978 to 1981, in which year he obtained his Masters in Economics, majoring in Applied Economics.

Furthermore, he was the Programme Coordinator of Industrial Development in Africa of the African Institute for Economic Development and Planning (IDEP), based in Dakar, Senegal for the academic year 1996-1997.

Finally, he is the author of several books and articles that have been published in the Scientific Review.



Session 1: Retrospective: EU-Africa relations over the last 10 years and the state-of-play of the JAES

Mr Geert Laporte: Deputy Director - ECDPM

Geert Laporte, a Belgian national, is Deputy Director at the European Centre for Development Policy Management (ECDPM) and Professor at the Department of Conflict and Development Studies at the University of Ghent, Belgium. He is responsible for ECDPM's institutional relations with the EU, the African Union, the ACP Group and a broad network of partners in different parts of the world. His thematic areas of specialization include: EU external action and development policy, the ACP-EU Cotonou Partnership Agreement and the Joint Africa-EU Strategy with a particular focus on the political dimensions of cooperation, peace and security, economic governance and regional integration.

Mr Laporte has been involved in extensive policy research, institutional audits, evaluations and publications on various aspects of ACP-EU and Africa-EU relations. He has also built up longstanding experience of policy dialogue facilitation and institutional and capacity development. Prior to joining ECDPM in 1990 he worked for several years as a research fellow and later as an assistant at the Centre for Third World Studies at the University of Ghent, where he mainly worked on the management of international cooperation in Latin America. Geert Laporte holds a Master's degree in Contemporary History and a Master's degree in Development Studies with a specialization in Public Administration, from the University of Ghent.



Session 1: Retrospective: EU-Africa relations over the last 10 years and the state-of-play of the JAES

Dr Jack Mangala: Associate Professor Brooks College of interdisciplinary Studies & Dept. of Political Science

Jack Mangala is Associate Professor of Political Science and African Studies with the Brooks College of Interdisciplinary Studies, Grand Valley State University, Michigan, where he successively served as Director of the African and African American Studies Program and Director of the Area Studies Center. A former NATO-EAPC research fellow at the University of Michigan Law School, he holds a PhD. from the Catholic University of Louvain in Belgium. Dr Mangala's scholarly interests center on the nexus between international law and human security, and on Africa's international relations with a particular emphasis on its EU and US dimensions. His most recent publications include *Africa and the New World Era: From Humanitarianism to a Strategic View* (Palgrave, 2010), *New Security Threats and Crises in Africa: Regional and International Perspectives* (Palgrave, 2010), and *Africa and the European Union: A Strategic Partnership* (Palgrave, 2013). He can be reached at mangalaj@gvsu.edu





Session 1: Retrospective: EU-Africa relations over the last 10 years and the state-of-play of the JAES

Dr Maurice Engueleguele: Programme Coordinator - African Institute of Governance



Dr Maurice Enguéguélé is Professor of Political Science (PhD) and has taught for 20 years at French universities (Amiens, Bordeaux) and in Cameroon (International Relations Institute). He also served as Head of Project for “Promoting Democratic Governance in Africa” in the Governance Mission of the French Ministry of Foreign Affairs. He has published several works on political behaviour, public policies and political participation issues in African countries. Dr Enguéguélé has been the Programme Coordinator of the Africa Governance Institute since May 2008, and a member of the Advisory Council of the Mo Ibrahim Foundation since 2012.

Session 1: Retrospective: EU-Africa relations over the last 10 years and the state-of-play of the JAES

Ambassador Gary Quince, Head of Delegation, EU delegation to the AU



Gary Quince is an economist with over 35 years' experience in international relations and development, including 30 years with the European Commission/ European Union. Much of this time has been spent working on and in Africa, including postings in Ghana, Kenya and Ethiopia.

From 2005 to 2011, Gary Quince was Director for Africa, Caribbean and the Pacific at EuropeAid, in the European Commission. In this capacity he had overall responsibility for the implementation of the EC aid programme in over 100 countries, including sub-Saharan Africa.

Since November 2011 he has been the EU Head of Delegation to the African Union, based in Addis Ababa Ethiopia.

Session 2: Improving political dialogue to address contentious issues: the case of the International Criminal Court (ICC)

Dr Kerstin Carlson, Department co-Chair International and Comparative Politics and Assistant Professor at the American University of Paris

Professor Carlson is the co-chair of the International and Comparative Politics Department at the American University of Paris (AUP) and also serves as an assistant professor. She joined the American University of Paris in 2011 and teaches undergraduate and graduate courses on international public law, human rights, political and sociological theory, and law and society topics. Dr Carlson received her Bachelor of Arts degree from Johns Hopkins University in Baltimore, Maryland, and her Juris Doctorate and PhD from the University of California, Berkeley. Prior to joining the American University of Paris, Dr Carlson worked as an international arbitration attorney at Cleary Gottlieb Steen & Hamilton in Paris where she practiced public and private international law. While in law school, Dr Carlson served on the Editorial Board of the California Law Review and as book review editor of the Berkeley Journal of International Law. She has worked as a summer associate at Clifford Chance and Debevoise & Plimpton, and clerked for a Federal District Court in Texarkana, Texas for the Honorable David Folsom. She is the recipient of two Fulbright Fellowships, the first to Croatia and the second to UNESCO, in Paris.



Session 2: Improving political dialogue to address contentious issues: the case of the International Criminal Court (ICC)

Professor Omorou TOURE, Professor at the University of Law and Political Sciences of Bamako (USJPB)

M. Omorou Zackaria TOURE est chargé de cours de droit du commerce international et de droit privé commercial à l'Université des Sciences Juridiques et Politiques de Bamako (USJPB), Mali depuis 1996. Il est titulaire d'un Master en International & Comparative Law, mention Commerce International obtenu à l'Université de Pittsburgh en mai 2003 aux Etats-Unis d'Amérique et d'un Master en Droit International, mention Droit International Privé obtenu à l'Institut Ukrainien des Relations Internationales de l'Université Taras Chevtchenko de Kiev (Ukraine) en mai 1995. Il est membre du Groupe de Recherche Appliquée Antenne LASCAUX (GRAAL) affilié à LASCAUX, un programme européen de recherche autour de la thématique « Droit-aliment-terre » (<http://www.droit-aliments-terre.eu>) dirigé par le professeur François Collart Dutilleul de l'Université de Nantes (France), membre du Centre d'Etudes du Développement International et des Mouvements Economiques et Sociaux (CEDIMES-Mali) (www.cedimes.org), chercheur affilié à West Africa Institute (Praia, Cap Vert) (www.westafricainstitute.org), partenaire du Center for European Integration Studies de l'Université de Bonn (www.zei.de) autour de la thématique "Sustainable regional integration in West Africa and Europe". Il a publié entre autres l'accès à la terre et la sécurisation foncière, les relations commerciales entre les Etats-Unis et l'Afrique Subsaharienne dans le cadre de l'African Growth and Opportunity Act, les Accords de partenariat économiques entre l'UE et les Etats ACP, la mise en oeuvre des sanctions au sein de l'Organisation Mondiale du Commerce.





Session 2: Improving political dialogue to address contentious issues: the case of the International Criminal Court (ICC)

Dr Barney Afako, Consultant on Peace and Security

Barney Afako is a member of the Ugandan Bar Association, and a specialist in legal aspects of conflict and transition issues. He also has vast experience in the fields of human rights, criminal justice and public international law. He has practised law in Uganda, Zimbabwe and the United Kingdom.

Afako has advised and assisted in several mediation efforts, including in Uganda, South Sudan and Sudan. He advised during the mediation and the parties, and helped to develop and draft agreements on accountability, reconciliation and transition processes in Uganda. In 2009, he advised the African Union Panel on Darfur, chaired by former South African President, Thabo Mbeki, and helped to draft the analysis and recommendations in the AUPD's report relating to justice issues. He has advised the African Union High Level Implementation Panel on Sudan and South Sudan (AUHIP) which on behalf of the African Union facilitates the negotiations between Sudan and South Sudan on post-secession issues, as well as democratization processes in each state.

He has written widely on justice and accountability issues, including: Negotiating in the Shadow of Justice in 'Initiatives to end violence in northern Uganda, 2002-2009 and the Juba peace process', Conciliation Resources, Accord series, London 2010; Law and Disorder: access to justice in conflict areas of Uganda, in Justice Resources Monograph (Netherlands Embassy Kampala, Consultancy) November, 2003; and Northern Uganda: Justice in Conflict, African Rights, London, January 2000.

Barney Afako is a regular commentator in the international media – including print, radio and television – on political and international justice developments in Africa. He is a frequent presenter at African Union and international conferences on conflict and transition issues, as well as at public and media events. He sits as a judge in the United Kingdom.



Session 2: Improving political dialogue to address contentious issues: the case of the International Criminal Court (ICC)

Professor Michelo Hansungule; Professor of Human Rights Law at the Centre for Human Rights

Professor Hansungule is a human rights professor at the Centre for Human Rights and has considerable experience in the field of human rights in Africa. He is currently Professor of Human Rights Law at the Centre for Human Rights, University of Pretoria, South Africa. He is also a member of the independent technical team established to measure the compliance of countries with the governance and human rights requirements of the New Economic Partnership for Africa's Development (NEPAD). In addition, he is an International Advisor to Kreddha International, The Hague; Member of the Advisory Board for UNIFEM and has taught international human rights law at several universities worldwide, including the University of Lund in Sweden and Mahidol University in Thailand. He has authored several media and academic articles. François Ndengwe is also an advisor to Hommes d'Afrique and Femmes d'Afrique, two leading pan-African news magazines.



Session 3: Making EU-Africa relations future-proof

Mr François Ndengwe, Chairman of the African Advisory Board

Mr François Ndengwe is the founder and chairman of the African Advisory Board, a consultancy dedicated to Africa's economic development. AAB's mission is to: (i) Improve public policy practice and thinking; (ii) increase the productivity of businesses and administration: public and private; (iii) facilitate capital-intensive investment; (iv) measure progress; and (iv) promote entrepreneurship.

A former professor of mathematics with a particular interest in optimization, and a graduate in theoretical mechanics from the Pierre and Marie Curie University of Paris, François Ndengwe is also a graduate of the Institut d'Etudes Politiques, Paris. He has created numerous financial products related to insurance, pensions, and long term savings.

As a founding member of the Congress of African Economists (CAE), he presented a ground-breaking paper at that Congress' first conference in March 2009 on the Vectorial Theory of Money. His works on employment policy are also highly regarded and were again selected for the second CAE conference held in November 2011. This time, his paper introduced the notion of Employment Macro-Cells and the concept of a nation's "employment profile" which provide a fertile theoretical instrument and an innovative and practical tool, respectively, for effective employment policy.

François Ndengwe is also an advisor to Hommes d'Afrique and Femmes d'Afrique, two leading pan-African news magazines.





Session 3: Making EU-Africa relations future-proof

Ambassador J. K. Shinkaiye, Former Chief of Staff – African Union Commission

Ambassador John Kayode Shinkaiye is a career diplomat with a wealth of experience in and knowledge of the private and public sectors across Africa, Europe and Asia, spanning over four decades. He studied sociology at the University of Lagos where he obtained a BSc Hons 2nd Class Upper Division degree in 1972, and soon after joined the Nigerian Foreign Service and enrolled for French in the University of Dakar. He pursued his career as a diplomat by first taking the Senior Executive Course in 1994 where he earned the prestigious MNI award. He later served in many strategic positions, including as Assistant to the Special Assistant to the Permanent Secretary, later becoming the Special Assistant to the Permanent Secretary and thereafter Director in Office of Permanent Secretary.

He has served in many Nigerian missions including: Lomé, Togo; London, UK; Dakar, Senegal; Equatorial Guinea and Ethiopia. His diplomatic service earned him prestigious recognition by Her Majesty Queen Elizabeth II with the award of Lieutenant of the Royal Victoria Order (LVO); the Medal of the Grand Cross of the Order of Independence (GCOI) presented by President Obiang Nguema Mbasogo of Equatorial Guinea in December 1993; and Officer of the Order of the Federal Republic (OFR). In addition, as part of the Nigerian delegation, Ambassador Shinkaiye made great personal efforts to contribute during the Lomé Peace Talk on Sierra Leone in 1999.

As Nigeria's Ambassador in Addis Ababa, Ambassador Shinkaiye was intimately involved in the transformation of the OAU to the AU and during his tenure there, where he served on many OAU/AU Committees, Sub-Committees and Working Groups.

Since 2006 he has served as Chief of Staff to the Chairperson AU of the Commission under the leadership of H.E Alpha Oumar Konare and later under the leadership of Dr Jean Ping of Gabon. He was in charge of the coordination of various complex activities under the office of Chairperson and led the management of all of Africa's strategic partnerships, including the Africa-EU Partnership.

His passion for knowledge has led to him authoring several reports and articles in many publications, including lectures delivered at many conferences and institutions.

He is currently chairman of JKS and Associates Ltd and a non-executive director of UBA Capital Plc.



Other invited participant

Mr Henry Malumo, ActionAid's advocacy work in Africa

Johannesburg-based Henry Malumo leads ActionAid's advocacy work in Africa. He specializes in the Tax Power – Tax Justice Campaign, food and agriculture, governance and climate change. He supports ActionAid Programmes in over 20 countries. He leads the Tax Power Pan Africa engagement and leads the ActionAid mobilization with the Africa Union, NEPAD, UNECA, SADC, EAC and ECOWAS. With past experience as Country Co-ordinator of the Zambia UN Millennium Campaign, Manager of GCAP Zambia and Essential Services Manager Zambia at Oxfam GB, he is committed to helping people act against poverty, working with communities to hold their governments to account.





Insight

The state-of-play of Africa-EU relations and the Joint Africa-EU Strategy (JAES)

By Geert Laporte, Deputy Director, ECDPM

A rapidly changing landscape

The context of Africa-EU relations has changed dramatically since the 2007 Lisbon Summit when the Joint Africa-EU Strategy (JAES) was adopted. Many African countries are benefitting from a major economic boom with impressive growth figures. Yet major challenges of sustainable and inclusive development, unemployment and political instability continue to persist in various parts of the continent.

On the other side of the Mediterranean, the EU has struggled for more than five years now with the effects of the economic and financial crisis. In spite of the 2009 Lisbon Treaty, the EU presents itself in the global arena as a divided and inward looking continent in global affairs and in the partnership with Africa. **New global players have created a more competitive context, thus providing Africa with significantly more choice in its selection of partners.**

Against this background, the long-standing Africa-EU Partnership is facing major challenges. Critical perceptions on both sides of the partnership persist and seem to be very hard to change.

The EU is perceived by many Africans to lack credibility and consistency in reconciling its strong normative, value-driven agenda with its security and economic interests. There appears to be fatigue from Africa over patronising EU attitudes, reflected in the use of double standards and conditionalities in dealing with different African countries and leaders and the perceived imposition of European agendas. The negotiating process on Economic Partnership Agreements (EPAs) that has been dragging on for more than 10 years has fuelled these negative perceptions. This critical message is slowly trickling down to the level of European decision-makers and there is a growing recognition in certain parts of the EU institutions and member states alike that **EPAs were a well-intentioned diplomatic disaster.**



But there is also a growing frustration on the EU side about African inconsistencies. Africa has major difficulties in speaking with one voice in its partnership with the EU. The African Union (AU) does not yet have the legitimacy and moral authority to speak on behalf of the African states and the Regional Economic Communities (RECs). European officials complain that “Africa does not implement its own decisions”. There is no shortage of ambitious declarations of intent from African heads of state on strategic directions in African development but concrete implementation lags behind. A case in point is the repeatedly declared ambition to reduce aid dependency and to build an Africa-EU Partnership on equal terms that puts an end to the long-standing donor-recipient type of relationship.

However, for the time being, recommendations made by African high-level advisory committees to establish sustainable finance mechanisms have remained empty slogans. As a consequence the addiction to EU aid continues in many African countries, as well as in continental and regional institutions. Europe seems to accept that development aid will still be needed for some time to come by the least developed and most vulnerable countries in Africa. However, there is a growing perception in Brussels and several European capitals that African countries that are generating spectacular increases of revenue from the mining and extraction of mineral resources and the associated economic boom, and should invest more of their own resources in African development. Differentiation in aid allocation between least developed and middle-income countries in Africa will therefore be an unavoidable development in the Africa-EU Partnership.

The JAES: how to turn ambitious goals into real results?

When the JAES was adopted in 2007 it had the stated ambition to build a strong strategic and political continent-to-continent partnership beyond aid that would treat Africa as one continent, ensure the participation of a multitude of stakeholders and deal with all issues of common concern and mutual interest in eight thematic partnerships.

Seven years later, the record of the JAES is rather mixed. A recent study of the JAES by ECDPM has pointed to progress made in the area of peace and security with greater maritime and transnational safety, the Africa-EU Infrastructure Trust Fund, initiatives that aim to strengthen African competitiveness and diversification in agriculture and industrial development, cooperation in the area of research, AUC-EC staff exchanges and other areas. It is also recognised that the JAES framework has helped to provide some level of structured dialogue



between African and European decision-making structures. However, the JAES is also facing major challenges, such as a lack of high level political traction on both sides of the partnership and a complex institutional set-up. Major divergences on key issues such as trade (EPAs) and issues of international justice and governance (International Criminal Court, ICC) do not seem to be addressed in a way which is open and effective. For the JAES to work, it is necessary to ensure political buy-in at ministerial levels and to create a leaner framework for its day-to-day management that is better adapted to African institutions and capacities. It would also be useful to align the partnership to global and continental policy frameworks (e.g. the AU Agenda 2063) and to ensure more effective participation of key stakeholders, such as social and economic actors who, at the end of the day, should be the key drivers of the Africa-EU partnership. Last but not least, in a modern and effective partnership on equal footing, both the EU and Africa should be mobilizing sufficient financial resources to ensure effective implementation of the JAES. So what is the way forward? How to break the deadlock and get things moving?

Beyond the April 2014 Summit of heads of state in Brussels it would seem crucial to keep the momentum going and further invest in the revitalization of the partnership. There is a risk that the broad overarching theme that was agreed for the summit: Peace, Prosperity and People, hides a profound discussion on the real issues that matter in the Africa-EU Partnership. There is no need for yet another Christmas tree of thematic priorities. What is needed now is a way to deal with the underlying psychology of the Africa-EU Partnership. This will require a radical overhaul of the traditional practices and recipes of the past. Some of the following elements could contribute to a different and more open manner of interaction.

Tackle “irritants” on both sides of the partnership frankly

Partnerships can only survive if they do not shy away from addressing sensitive and delicate issues that have given or could give rise to tensions between both partners. The EPA was the key irritant that has soured the partnership for more than 10 years. Unfortunately, the JAES did not manage to provide a suitable platform to address the controversial EPAs. There seems to be a more open and constructive approach now that West Africa is in the final stages of concluding an EPA with the EU. But there is still some way to go to do away with the tensions that the EPA negotiations have created between both partners. The issue of cultural cooperation

and the restitution of cultural goods by European countries to Africa also remains a delicate issue in the partnership. For Africa this is clearly an issue that should be part of the dialogue on governance and human rights while the EU does not seem to be willing to fundamentally re-open this debate.

Other irritants between both continents relate to the prescriptive, patronizing and inconsistent application by the EU of values and normative approaches in the partnership with Africa without taking due account of the African pace and ownership of reforms. There is also a perception in parts of Africa that international institutions that are strongly backed by the EU, such as the International Criminal Court (ICC), tend to apply double standards by targeting primarily African leaders.

But the EU too, has accumulated frustration over some African positions. While the JAES was designed as a strategic framework that would also ensure the participation of non-state actors in civil society and the private sector in dialogue and implementation, the African side seems to be rather reluctant to systematically involve these new actors in the partnership and to entrust them with more responsibilities. Europe also feels that there is some ambiguity in the African discourse on economic and political reform, change dynamics and structural transformation on the continent. As mentioned earlier, there is no shortage of ambitious strategies and declarations to mobilize African domestic revenue. However, in practice, there is European irritation that progress is too slow on this crucial issue and that the Africa-EU Partnership and the ACP-EU Partnership under the Cotonou Agreement continue to be overly dominated by aid thinking.

Be more explicit about interests

For several decades Europe has perceived Africa as a continent of crisis and threats. Now that new partners (e.g. BRIC countries) are eager to seize opportunities on the African continent, Europe should not remain on the sidelines. Instead it should be more explicit in articulating its interests. EPAs provide great opportunities for Europe in terms of export markets and access to strategic resources. Besides which, the EU has an interest in having a stronger partnership with Africa on peace and security and in multilateral fora on issues such as the Post-2015 debate, climate change, green economy and renewable energy. Together, both Africa and the EU represent a group of more than 80 countries, a potentially important power in the global arena. In the longer term Africa could also provide adequate answers in terms of an increasingly skilled labour force to the ageing and shrinking European population. As stated by some African intellectuals

“Africa could in the future become part of the solution to the problems in the EU”. From its perspective, Africa could also be more explicit in clearly spelling out why and where the EU can bring added value to Africa compared to other partners. Several RECs have expressed interest and appreciation for the European model of regional integration. Europe's policies on inclusive development, social protection, mobilization and equitable redistribution of revenue and wealth could also be attractive to Africa. Europe could similarly be of use to Africa in helping to tap the potential for a green economy, renewable energy and in tackling the enormous threat of climate change.

Show results on issues that really matter

While there has been some progress in recent years in areas such as peace and security, trade, transport, infrastructure and research; Post 2015 it remains to be seen whether the EU will be willing to go the extra mile on issues that matter a lot to Africa. Will the EU support Africa's demands for stronger African representation in global institutions, including in the UN Security Council? Will the EU be ready to grant reciprocal treatment in terms of free movement of Africans in Europe?

Change the mind-set in the partnership

Factors relating to the mind-set and the “psychology” of the partnership between Africa and Europe seem to play a major part in the current state of the relationship between both continents. In order to restore confidence and trust among its African partners, the EU could do away with overly prescriptive attitudes and normative approaches. There do not seem to be major divergences over the content of the value-driven agendas which both continents seem to share to a large extent. It is more a matter of respecting the ownership, pace and priority setting of internal African reform processes. Co-responsibility instead of conditionality should guide the partnership and that will hold a greater potential for success. Old habits die slowly but it appears that the EU is trying to learn from past failures, including poorly designed governance incentive initiatives.

But changes are also needed on the African side of the partnership. The renewed African assertiveness and self-criticism is most welcome as it will help the African continent to make the right choices in terms of its needs, strategic orientations and partners. In this context, the critical assessment of all Africa's strategic partnerships is a very timely and welcome exercise. However, more needs to be done to break the chains of extreme dependency. Repeatedly, African leaders and institutions have expressed the desire to become

financially independent of the EU and other international partners. Panels of wise Africans have been established to look into the innovative financing of African institutions. Meetings of the African Ministers of Finance are now seriously looking into this issue. But it appears to be difficult to put these ideas into practice. Yet these are perceived to be key factors in building more balanced partnerships with the EU and other external partners.

In conclusion, the balance of power between Europe and Africa is undergoing a major change. Europe is still Africa's major trade, investment and development cooperation partner but this long-standing dominant position is threatened. This does not need to be dramatic for either partner. On the contrary, it may give rise to burden sharing among the various partners and to find the best complementarity and role division, provided Africa takes a firm lead in its own development. In the longer term this could lead to a healthier and more balanced partnership between both continents which will clearly benefit both Africa and Europe 🌍



Six years after Lisbon:

the JAES at a Crossroads

By Jack R. Mangala,
Associate Professor Brooks College
of Interdisciplinary Studies

Introduction

At the 2007 Lisbon Summit, Africa and the EU unveiled an ambitious strategy aimed at radically transforming their relationship which had been traditionally characterized by a donor-recipient dynamic, as well as a number of shortcomings stemming, *inter alia*, from the fragmented nature of the relationship, the lack of sufficient policy and institutional synergy, and the absence of a coherent and integrated vision of what this relationship ought to be. The adoption of the Joint Africa-EU Strategy (JAES) was thus intended to respond to a host of internal challenges that had plagued the relationship for decades. More importantly, however, the JAES was also conceived of as a policy and political response to external challenges that called for a redefinition of the relationship in light of the evolving global context, as well as the profound changes affecting the regional context in Europe and Africa.

This dual purpose has been enshrined in a strengthened political partnership to renew Africa-EU relations. The JAES' ambitious political agenda represents, in the final analysis, its added value compared to other EU-Africa policy frameworks. As such, the JAES stands out as a unique experiment in EU-Africa relations in particular, and in the realm of interregional relations in general. For the first time ever, Africa and the EU agreed, in 2007, on a common strategy aimed at responding to internal and external challenges faced by their relationship. The new policy framework that encapsulates this imperative was meant to take the historical relationship between the two partners "to a new strategic level" and serve as an "overarching long-term framework for Africa-EU relations,"¹ which were to be pursued and implemented through eight

thematic partnerships and related Action Plans dealing respectively with peace and security, democratic governance and human rights, trade and regional integration, the MDGs, climate change and the environment, energy, migration, mobility and employment, and science, information society and space.

The inception of the JAES was, to say the least, a bold and challenging undertaking. It came in part in reaction to the cold reception received by the *EU Strategy for Africa* that the EU Commission had unilaterally developed in 2005 and which, in the eyes of African partners, seemed to perpetuate a *modus operandi*—unilateralism—that was not fit for the new regional and global context in which their relationship was evolving; it could not successfully provide the necessary impetus the relationship needed to weather the storms that had gathered. The transition from an EU Strategy for Africa to an Africa-EU Strategy in 2007 underlines a conceptual shift that emphasizes the strategic imperative of transforming the relationship, not through a unilateral approach, but through common vision, goals, objectives, and implementation strategies within a strengthened political dialogue that ought to reflect a "partnership of equals".

How can a relationship, which at its core is a donor-recipient relationship, be transformed into a "partnership of equals"? This has been, I must say, the existential question at the heart of the JAES. The JAES' "transformative reform agenda"—which seeks essentially to reinforce a partnership that addresses issues of common concern to Africa and the EU; to treat Africa as one and enhance political dialogue in their continent-to-continent relations; to strengthen regional and continental integration in Africa; and to establish

the JAES as the overarching policy framework for EU-Africa relations, in order to bring effectiveness and coherence to the various agreements and policies enacted over time and which have come to form a dense and sometimes complex web of relations—gives the measure of the ambition of the project as well as the implementation challenges that may be expected from such undertaking.

Six years after the Lisbon Summit — which African and EU heads of state and government wanted to "be remembered as a moment of recognition of maturity and transformation in our continent-to-continent dialogue, opening new paths and opportunities for collective action for our common future"² — where does the JAES stand? Has the JAES delivered on its ambitious agenda? Is its original vision still relevant? Are the key stakeholders still committed to it?

Thorough assessment of the JAES implementation process though has been fraught with some important challenges. First, although the JAES was agreed upon in 2007 and despite some initial successes, it took some time to get it off the ground and the optimism expressed in Lisbon of substantially modifying the nature and quality of EU-Africa relations seemed to fade rather quickly. In response to this situation, the 13th Africa-EU Ministerial Troika of October 2009 invited all interested actors and stakeholders — only two years after the adoption of the JAES — to proceed to a "fundamental review" of the structures and mechanisms of the first Action Plan and, where needed, to formulate proposals for "significant changes" at various subsequent meetings that culminated in the 3rd EU-Africa Summit in November 2010. Although necessary, this adjustment process made the JAES look like a

moving target, thus further complicating its assessment and analysis.

Second, it has been argued — and rightly so — that given the importance of the JAES and the magnitude of the changes it entails, a six year timeframe is too short to fully assess its substantive impact on Africa-EU relations. Such an ambitious agenda, it has been asserted, “requires a transition period, based on experimentation, collective learning and adjustments to well-established ways of organizing Africa-EU relations”.³ In many respects, the first six years of the JAES represent this transition period which has seen various stakeholders reassess their respective priority agendas and the initial vision of the JAES, putting it to a reality test. For the most part, the JAES has been, to borrow from Bossuyt and Sherriff, a “building in construction”.⁴

Despite these challenges, inherent to the transformative reform agenda embedded in the JAES and its Action Plans, various studies have succeeded in capturing the tempo of the implementation process. They have successfully addressed the key issues raised and the constraints that the JAES has faced within each of its thematic partnerships during this “construction” period. They have offered specific policy recommendations aimed at contributing to the realization of **the JAES’ vision of taking “the Africa-EU relationship to a new, strategic level with a strengthened political partnership and enhanced cooperation at all levels”**.⁵

Against this backdrop, this paper seeks to go beyond the travails of individual thematic partnerships and reflect on the whole enterprise. What is the big picture that seems to have emerged from six years of the implementation of the JAES? What have been its most significant achievements? What are the enduring

cross-cutting issues and challenges? What lessons can be drawn from both the design and first stage implementation of this overarching and ambitious policy framework? In light of these lessons and the evolving international and regional context, what corrective actions and changes are needed if the JAES is to live up to its original vision of radically transforming Africa-EU relations through a strengthened political partnership between the two unions?

These are the central questions that form the backbone of this paper and around which it is structured. In the final analysis, the JAES stands as a grand and flawed experiment that can nonetheless be accredited with limited achievements. It has faced a wide range of cross-cutting challenges that call for some necessary adjustments which can only be fully carried through if all the stakeholders have the courage in the face of a rapidly evolving regional context in Africa and Europe as well as a shifting global context, to summon the spirit of Lisbon six years after that historic Africa-EU summit.

A Grand and Flawed Experiment

The adoption of the JAES was intended to reflect a moment of maturity in Africa-EU relations, a collective recognition that the fundamental course of this relationship and the profound dynamics that had characterized it over the past fifty years needed to change to treat the multiple sclerosis that had developed over time and to adapt to the new environment in which this relationship was now evolving. Against this backdrop, the JAES was conceived of as a grand experiment aimed at modernizing and transforming Africa-EU relations through a strengthened political partnership at all levels of cooperation.

To take the measure of the boldness of this new experiment that was supposed to mark a fundamental shift in Africa-EU relations, it suffices to recall, in substance, the ambitious vision enshrined in the JAES to overcome the traditional donor-recipient relationship and **develop a partnership of equals that goes, according to the now common formula, “beyond development cooperation, beyond Africa, and beyond institutions”**.⁶ For the first time in the history of Africa-EU relations, this new vision was developed after a long and laborious public consultation process that sought the participation, with various degrees of involvement and input into the final product, of a wide range of institutional and non-institutional actors and stakeholders from Africa and Europe, all of whom agreed that the relationship needed a new direction and *modus operandi* to remain relevant.

The JAES was intended to capture this historical imperative and enable a new environment that could lead to a transformed Africa-EU relationship over time. This long-term perspective is clearly reflected in the language of the JAES which emphasizes a number of important process outcomes (e.g. constructing new partnerships, defining common agenda, supporting the pan-African architecture) in pursuing its transformative agenda. Such process outcomes can only be achieved over a long period of time. In addition to this long term vision, the JAES was also supposed to embody a result-oriented approach by achieving key deliverables and meeting operational targets outlined in the eight thematic partnerships. How were the tensions between the long term (process outcomes) and short term (result-oriented) perspectives conceptually structured and managed



in the formulation of the JAES? Is the JAES a coherent and sound strategy? Does it make realistic assumptions? Were the relevant questions (e.g. the asymmetries in capacities between the two unions) that should inform the formulation of a political strategy of this nature asked? Can the JAES, in the way it has been conceptualized as a “strategy”, deliver on its promises of fundamentally transforming Africa-EU relations? Does it have the ability to confront future challenges?

These fundamental questions have arisen and been addressed, in various degrees of depth, in a host of studies and meetings devoted to the JAES since 2007.⁷ The overall picture that emerges from these various exercises is that **the JAES represents a grand experiment, an important political engineering** which displays, however, key conceptual flaws that impede its transformative potential. These flaws have been precisely identified and eloquently dissected by Erik Lundsgaarde, who has looked in-depth at the core questions that should have informed the development of the strategy.⁸ On the question of thematic interdependence, the JAES scores rather poorly in that it offers a long litany of priorities but fails to devote the required level of attention to the interrelationships between the various thematic areas. Thus, asserts Lundsgaarde, the JAES’ failure “to distinguish between core issues for engagement and more peripheral areas of cooperation offers limited guidance for resource allocation and few markers for progress”. This represents, to say the least, an important flaw that seems to have negatively impacted the implementation of the JAES.

More substantially, however, one of the purposes of a strategy is to promote coherence of action within

an organization. In the realm of Africa-EU relations, the low level of coherence and integration between the various activities and frameworks has historically been one of the major criticisms of the relationship, a situation to which the formulation of the JAES was intended to provide an adequate response. This central rationale for the elaboration of the strategy has not, however, been successfully translated to the JAES, which remains fragmented in its purpose. This conceptual flaw is on full display in the JAES’ Action Plans which appear rather as a collection of disparate priority actions and related activities across the various thematic partnerships without a central and integrated “strategy” to focus the action and guide both time and resources allocation. Against this backdrop and contrary to its declared intent of contributing to a greater coherence of action in Africa-EU relations, the JAES may do just the opposite by further fragmenting the relationship. It is not surprising that the JAES has not succeeded in providing an overarching policy instrument for Africa-EU relations. Contrary to the stated ambition, rather it seems to have become one of various frameworks through which these relationships are conducted.⁹ The end of the traditional fragmentation was supposed to be one of the landmarks of the modernization endeavour embodied by the JAES.

Despite these conceptual shortcomings however, the JAES has infused a new dynamic into the relationship; it has led to limited achievements that are slowly transforming the relationship, even though its implementation has faced important cross-cutting challenges that might, if not properly addressed, water down the ambitious vision of this otherwise transformative framework.

Limited Achievements and Cross-cutting Challenges

The JAES represents an ambitious and historic undertaking that must be assessed against the backdrop of a long and troubled relationship that involves a wide range of actors, institutions, policy frameworks, interests and traditions on both sides; thus creating a complex, challenging, and multi-dimensional implementation environment. In the face of this challenging environment and the complex issues to be addressed to overcome decades of fragmentation and a deep-seated donor-recipient culture in the relationship, some have wondered whether the JAES founding fathers were too ambitious and underestimated the challenges ahead in seeking to “fundamentally” transform the Africa-EU relationship. In the light of the historical and present reality of the relationship, the JAES appears, in some of its key pronouncements and objectives, to be rather aspirational, a declaration of intent whose realization is left to a distant future.

This aspirational dimension of the JAES carried the risk of the whole framework losing its relevance if tangible achievements were not demonstrated to support the narrative that the relationship was indeed being transformed, even if only in small steps and aspects. This would explain why, as it has been observed, implementation agents involved in various thematic partnerships came under pressure to show “quick results” and to demonstrate that concrete projects were being carried out, leading to what Bossuyt and Sherriff refer to as “the bureaucratization of the JAES”.¹⁰ Such an exercise was certainly necessary as a matter of public relations aimed at answering the growing number of those who, not seeing any immediate

impact of the JAES, came to question its relevance.

JAES review reports published since 2009 — the first two years did not see much activity — reflect the aforementioned concern and have tended to highlight the many “achievements” marking the completion of various projects — often technical in nature — undertaken within the respective thematic partnerships. However, given the ambitious political agenda at the core of the JAES, it is worth looking beyond these technical achievements to see whether, as a result of the JAES’ implementation, there have been any new dynamics and processes that would seem to indicate that a substantive change is underway - even at a slow and limited pace - and which might, if sustained and amplified, shift the relationship toward a new direction.

From the extensive review undertaken in various studies and reports that have been published on the JAES over the six years,¹¹ the following points seem to indicate that there has been some progress in Africa-EU relations under the aegis of the JAES. First, despite the conceptual shortcomings I have discussed in the preceding section, it is fair to assert that **the adoption of the JAES has led to reinforced cooperation between Africa and the EU.** This new level of cooperation is however more visible in some areas (e.g. peace and security) than others. On this point, it is important to note that the quality of cooperation observed in the peace and security area is due, to a certain extent, to some initiatives and processes that predated the JAES and which have been enhanced by the latter. Second, the parties have been willing to engage in political dialogue in some sensitive areas such as migration. Even though the political dialogue needs to be

deepened and expanded to other areas, it is an encouraging sign of maturity in the relationship for the parties not to shy away from sensitive issues that call for an open and frank discussion—not necessarily agreement.

Third, the JAES has allowed the expansion of Africa-EU relations to new areas of cooperation (e.g. energy, climate and the environment, science and technology) for which the emerging partnerships hold the promise of a mutually beneficial relationship if both sides can clearly and strategically articulate the points of convergence and divergence that frame each partnership and seek practical solutions to these complex and interdependent issues. Fourth, since the adoption of the JAES, there has been a growing understanding — and in some cases (e.g. election observation, agricultural policy) a genuine effort— of the imperative to seek greater synergies between the priority actions outlined in various partnerships and African home-grown and led initiatives.

Fifth, even though this has not been pursued in a consistent and systematic way, Africa and the EU have sought to coordinate policy responses, develop Joint Positions and agree on Joint Declarations on a number of important issues that have been on the agenda of the international community (e.g. climate change, MDGs). Given the development gap and the differences of interests and perspectives on these issues between Africa and Europe, such an exercise represents, to say the least, a delicate diplomatic undertaking. The fact that it has been attempted, even though not always successfully, must be considered as a mark of progress that speaks to the new political space and dynamic that the JAES seems to have permitted. Sixth, the past six years

have seen not only a greater institutional rapprochement between the AU and the EU, but also greater institutional support from the latter to the former. Greater support — including financial — to pan-African institutions and initiatives (e.g. the African Peace and Security Architecture, NEPAD) is slowly becoming part of the emerging JAES culture under the “One Africa” narrative.

While the various trends outlined above are certainly indicative of a new dynamic in the Africa-EU relationship, the latter has however not yet been “fundamentally transformed” as called for by the JAES. As I previously stated, the JAES is aspirational in its bold vision of changing the texture and course of Africa-EU relations. This can only be a long-term process, which requires a long-term perspective. However, six years since its inception, the implementation of the JAES has highlighted important and complex challenges that seem to obscure the long-term vision unveiled in Lisbon, and have impeded on the ability of the JAES to deliver even on its short term promises, leading to what some have called a “credibility crisis”.¹² What are those challenges?

The implementation of the JAES has been faced with challenges of a technical and political nature. The former have received enough attention in various assessment reports and studies, whereas the latter have often escaped those radars. A non-exhaustive account of the technical challenges would include: limited human and financial resources on the part of African partners, inadequate communication strategy, slow implementation due to delays in the preparation of consolidated African positions, cumbersome and heavy institutional architecture, blurring of roles and responsibilities between “actors” and “experts” involved in the



implementation process, insufficient link between the technical and political levels of decision-making processes, duplication of work, increased fragmentation and low level of coherence between the JAES and other policy frameworks, and the non-alignment of existing financial and programming instruments with the JAES even though the latter was supposed to serve as the overarching policy framework for Africa-EU relations.

Besides these technical challenges there are important political ones on which I wish to further elaborate. At the heart of the JAES is a commitment to strengthen political dialogue between Africa and the EU. A mature political engagement extending beyond traditional areas of cooperation was supposed to represent the cornerstone of the strategic partnership sealed in Lisbon. The JAES was supposed to be driven by a clear and audacious political agenda actively supported by the political leadership and member states on both sides.

However, the implementation of the JAES has been accompanied by a gradual retreat from this core commitment, a reverse phenomenon of “political dilution” whose dynamics have been well captured and articulated by Bossuyt and Sherriff.¹³ This phenomenon, which represents the central political challenge facing the JAES, speaks to the grim reality that whereas the new framework was supposed to embody a sustained level of political engagement, it has slowly drifted toward what looks more like a bureaucratic process with limited focus on the “politics” — the central and often contentious issues that underline the relationship. The implementation process has displayed a tendency to emphasize technical issues and challenges and pursue the quick completion of specific activities

that would lend some credibility to the whole enterprise. Intimately linked to the core question of political dilution, and in some ways an expression of it, are other peripheral political challenges such as the lack of a broad ownership among the stakeholders, limited involvement of member states, civil society and the private sector bringing into question the whole narrative of an inclusive process, limitation of the troika format as the main body for political guidance, the choice to deal with some sensitive matters (Economic Partnership Agreements, EPAs) outside of the JAES framework, and enduring fragmentation, all of which have translated into the fact that, contrary to what had been initially envisioned, **“the JAES has been functioning as “a stand-alone”, primarily bureaucratic process, without strong political clout and aligned financial resources to make things happen, providing limited added value compared to existing multilateral and bilateral policy frameworks”**.¹⁴ This state of affairs, stemming from a gradual political retreat represents the greatest existential challenge to the JAES, one that both sides must address — openly and frankly — as they continue to seek the necessary adjustments to this landmark policy framework.

The Necessary Adjustments

The aforementioned challenges have prompted a number of policy proposals and ideas aimed at helping the JAES achieve its full potential and stopping what seems to represent a departure from its original vision. In particular, the period leading up to the 3rd Africa-EU Summit in Tripoli in 2010 witnessed a substantive debate about the JAES implementation process and the emergence, from various circles of reflection, of concrete proposals for moving this ambitious agenda forward.¹⁵ As we approach

the seventh anniversary of the JAES, and building on this corpus of earlier proposals, I would like to discuss a set of key ideas which have gathered enough consensus and represent the adjustments needed to revitalize the JAES. Beyond mere technical adjustments, they substantively address four core issues dealing respectively with the revitalization of the political dialogue, the streamlining of institutions and implementation mechanisms, the issue of policy coherence and complementarity, and questions of sustainable funding sources and asymmetry in the relationship.

Any revitalization of the JAES must be predicated on the premise that the latter is first and foremost a political partnership which requires a sustained political engagement of all stakeholders and an unwavering commitment from the political leadership in Africa and Europe. Against this backdrop, it seems imperative: to expand the political dialogue to all contentious issues affecting the relationship (e.g. EPAs) and ensure that they are openly and frankly addressed at the highest political level; clearly articulate the interests of both sides in the analysis of the political economy that must be an integral part of the processes that informs a mature political dialogue; sustain the same political dialogue in international fora around issues of global concern; seek a greater participation and ownership of all African and European stakeholders (i.e. states, civil society, and regional economic communities) beyond the AU and EU institutional actors and structures — what has been termed the “Brussels-Addis Axis”; outline a robust communication strategy aimed at fostering participation and ownership; reconcile the search for short-term results with a long term perspective

which takes into account the political vision of the JAES; and, above all, jointly articulate a clear political roadmap to accompany the development and implementation of the JAES.

Revitalizing the JAES also requires streamlining its institutional structures and implementation mechanisms which are considered heavy and cumbersome. To that end, it is necessary to ensure in particular that the lines between implementation actors and participants with a clear political mandate and those without are not blurred; to establish links and feeding mechanism between the technical and decision-making processes and structures of the JAES; address the institutional questions stemming from the limitations of the Troika format as the main body for political guidance; strategically deal with the question of inadequate human and institutional resources on the part of the AU and its impact on the functioning of the JAES; clarify the AU mandate in developing continental agendas on the core issues in the domain of the JAES; and to involve and seek the contribution of a wide array of legitimate continental and regional processes and fora in Africa and Europe in the formulation of common positions outlining shared interests on core issues pertaining to the relationship.

On the question of policy coherence and complementarity and the overall quest for efficiency, reform ideas have highlighted the need to clarify the links between the JAES and other frameworks, such as the Cotonou Agreement and the Union for the Mediterranean, with the aim of establishing the JAES as the overarching policy framework for Africa-EU relations; to focus JAES efforts on continental and regional priorities where they can have the most impact and added value; to seek better synergies between the

JAES and pan-African architectures and policy frameworks as promoted by the AU in areas such as peace and security, democratic governance and human rights, science and education, and agriculture; to work closely with member states to ensure greater compatibility and coordination between their national policies and processes, and the JAES.

Finally, the question of sustainable funding resources and asymmetry in the relationship must be dealt with in the context of a broad political and strategic dialogue to ensure the long-term relevance of the JAES. To that end, it is necessary to more closely align EU funding mechanisms and envelopes with the goals and strategic priorities of the JAES; to encourage African partners, within their limited capabilities, to mobilize their fair share of financial resources in the realization of the JAES' objectives and in harmony with national and continental programs and priorities; and to continue directing substantial JAES funding and resources toward the strengthening of pan-African and regional institutions as part of a strategic capacity building program aimed at alleviating the asymmetry impediment and which should, in turn, increase Africa's capacities to leverage its own resources over time.

However, none of the reform ideas outlined above would make any difference unless all the stakeholders in the JAES summon the spirit of Lisbon. Otherwise, any attempt at reform could easily become a technocratic and bureaucratic exercise disconnected from the bold strategic vision that lies at the heart of this transformative framework.

Summon the Spirit of Lisbon

Beyond the internal challenges discussed earlier in this paper, the JAES

is being tested by a conjunction of situations linked to the evolving regional context in Europe and Africa, as well as to more global trends, all of which seem to indicate that Africa-EU relations — and the JAES with it — stand at a critical juncture.

Current economic tribulations in Europe are testing the EU's internal cohesion — and even the survival of the organization itself — in fundamental ways. They represent, to say the least, a moment of true for the EU. Faced with its own difficulties and survival, the EU and its member states might be inclined to adopt an isolationist posture that relegates the implementation of the JAES and EU relations with Africa in general to a lower priority.

On the other hand, the positive economic trends in Africa coupled with the attention it is receiving from emerging powers such as China, India, and Brazil, might also make Africa begin to doubt or underplay the importance of its relationship with Europe. If not approached and negotiated properly, the current situation might lead the two sides toward a progressive disengagement from the JAES and the dwarfing of its original vision to simply a technocratic framework given only peripheral and cosmetic attention.

If anything, however, the current regional situation in Africa and Europe should be a reminder of why the JAES was adopted in the first place. The formulation of the JAES was predicated on the idea that Europe and Africa need each other more than ever, but must modernize their relationship “to face with confidence the demands of our globalizing world”.¹⁶ At the core of this historical and potentially transformative undertaking was a commitment to strengthen their political partnership



and strategically expand it to new areas of cooperation. The adoption of the JAES highlighted the common conviction that their relations could no longer tolerate either fragmentation or the lack of an underlying strategic vision, and that a new framework was needed to manage critical — and growing — interdependencies. It is this spirit, present in Lisbon, that needs to be summoned by all stakeholders.

Summoning the spirit of Lisbon calls on all stakeholders to make policy choices that work toward the realization of the vision emanated by the JAES, not against it. To that end, and to give more substance to the central notion of a “strategy” that will enable the realization of this vision, it is imperative that the thematic interdependencies between the various areas of partnerships are clearly defined and that the core is differentiated from peripheral areas of engagement. In the final analysis, there seems to be no viable alternative to the JAES. Africa and the EU cannot afford to go back to a fragmented, policy incoherent, visionless and apolitical relationship. Both sides have more to lose than gain by going down that road.



End Notes

1. The Africa-EU Strategic Partnership/A Joint Africa-EU Strategy, § 4 and 5.
2. Lisbon Declaration, EU-Africa Summit, Lisbon, December 9, 2007.
3. Jean Bossuyt and Andrew Sherriff, What next for the Joint Africa-EU Strategy? ECDPM Paper 94 (2010), 4.
4. Ibid.
5. The Africa-EU Strategic Partnership/A Joint Africa-EU Strategy, § 4.
6. European Commission, One Year after Lisbon: The Africa-EU Partnership at Work, COM (2008) 617 final, 2.
7. See, inter alia, Mangala Jack, ed., *Africa and the European Union: A Strategic Partnership* (New York: Palgrave Macmillan, 2013); James Mackie et al., *Questioning Old Certainties: Challenges for Africa-EU Relations in 2012*, Policy and Management Insights, no.3, December 2011; James Mackie et al., *The Road to the 2014 Summit: Challenges to Africa-EU Summit in 2013*, Policy and Management Insights, no. 4, December 2012; *A New Impetus for Africa-EU Relations*, Great Insights, vol. 2, Issue 6, September 2013; *Looking Beyond 2013: Are Africa-EU Relations still Fit for Purpose?* Conference Report, 2013. <http://www.ecdpm.org>
8. Lundsgaarde, E., *The Future of Africa-EU Strategy*, in Mangala Jack, ed., *Africa and the European Union*, op. cit, pp.225-240.
9. Bossuyt and Sherriff, *What next for the Joint Africa-EU Strategy?* 7.
10. Idem, 10.
11. See studies listed in note 7.
12. Idem.
13. Idem, 8.
14. Idem, 10.
15. See, inter alia, Europe Africa Policy Research Network, *Beyond Development Aid: EU-Africa Political Dialogue on Global Issues of Concern* (Brussels: EARN, 2010).
16. Lisbon Declaration, EU-Africa Summit, Lisbon, 9 December 2007.



What future for the Joint Africa-EU Strategy?

By Maurice Enguéléguélé,
AGI Executive Director a.i.

Launched in Lisbon in 2007, the Joint Africa-EU Strategy was supposed to be the framework for a new strategic political partnership for the future, overcoming the traditional donor-recipient relationship and building on common goals and values. These ambitious objectives were supposed to be implemented through successive Action Plans and eight thematic partnerships. Seven years after the launch of the joint strategy, and in the view of the preparations for the next EU-Africa Summit in April 2014 in Brussels, the two sides have, individually and collectively, made assessments of the JAES that have all concluded on the divergence of its results.

The JAES created a new space for dialogue between Africa and the EU and has delivered some results across a number of key areas: Africa and the EU are working closely in the area of peace and security; various programmes in agriculture and rural development, infrastructure, energy, the environment and research are being implemented. However, the techno-bureaucratic dimension has dominated the policy perspective and there has been a lack of real political traction because of serious divergences on trade, international justice, governance and cultural goods. In general, the partnership has been limited to an asymmetric donor-recipient relationship centred on procedures and modalities of aid. The financial support provided to African countries via the JAES was based on the false premise that reform can be bought, as reflected by the European Governance Initiative and its incentive tranches. Very few political decisions have been adopted and implemented under this strategy mainly characterized by African's actors in terms of its inertia while there was no dedicated financial instrument to support the implementation of the Joint Strategy. The monitoring and evaluation mechanisms for JAES implementation were another area of concern.

The changing context of the partnership was also reflected in the mixed assessments of the JAES. On the one hand, Africa is booming, as testified by its unprecedented socio-economic dynamic of growth of around 5.1% since 2007 and the decision of its leaders to translate this momentum into inclusive, participatory, accountable and green growth through the Agenda 2063 and to boost its regional integration agenda with the aim of creating a common market in 2017. For African actors, the focus is no longer on aid but on new developmental priorities (socio-economic transformation, youth employment, industrialization, sound management of natural resources, combatting illicit financial flows, trade, agriculture and food security, climate change, the creation of an African capacity to respond rapidly to transnational crises caused by new security threats, etc.).

On the other hand, Europe is facing a severe economic and financial crisis. The challenge for Europe is to renew its vision and objectives in the JAES, particularly now that there are other emerging global players (such as Brazil, China, India, South Korea and Turkey), that can offer Africa new opportunities for development and propose other forms of partnership that focus on trade, investment and geopolitics. Obviously, the new African, European and global contexts may call for a review of priorities in the JAES.

Institutional constraints are also affecting the dynamics of the partnership. The first and most important is the prospect of European parliamentary elections in May 2014 the results of which will undoubtedly impact on Europe's direction and priorities in its relations with Africa. The second is that the JAES co-exists with other frameworks - such as the Cotonou Partnership Agreement, EU-ACP cooperation, the Neighbourhood Policy, as well as thematic dialogue around specific issues such as security and development in the Sahel - making it difficult to enforce a new approach going beyond traditional development cooperation tools. And the third is the ongoing process of assessment of all the partnerships of the AU undertaken by the AUC, the results of which will be submitted to the political bodies in July.

Despite these challenges, the two parties have agreed that it is necessary to rebuild trust and commitment in order to revitalize the partnership and to establish a strong common vision for their relations. The JAES can be considered a useful framework for this purpose if it is subjected to a paradigm shift based on four main conditions:

- Move away from an aid-centric, donor-beneficiary and techno-bureaucratic relationship and take it to a strategic level with strengthened policy dialogue and enhanced cooperation between equal partners.
- Articulate the policy dialogue in the renewed partnership around global challenges of mutual interest for the implementation of the strategic agendas of both parties and on issues that could have a transformative impact on Africa and the EU. The first step in this approach would be to focus on a set of issues where there is traction, i.e., issues of interest to both partners which will benefit from clear leadership and where action has and will continue to be taken even if leadership and institutions change. The second step could be to include in the policy dialogue contentious issues that cannot be avoided but must be resolved without pressure and by taking time to develop a mutual understanding.



- Recognize clearly the strategic interests of each party and their shared responsibilities in the implementation of their agendas for change.
- Treat Africa as one, and clearly abandon all initiatives and policies that go against the socio-economic transformation of the continent and its strong regional integration agenda. This requires, in parallel, greater coherence in the EU's overall external action, avoiding duplication and disruption. This will also clearly involve the AUC as a regional entity in the negotiation of the Cotonou Post-2020 Agreement.

In this context, an African stakeholder has put forward some ideas on ways to revitalize the JAES:

- Align the JAES in terms of African and European long-term continental and global strategies. This will also take into account the AUC's 2014-2017 Strategic Plan and the Africa Vision 2063.
- Lighten and streamline the institutional framework based on the lessons learned from the operational difficulties encountered and the need for better implementation and evaluation of decisions, as well as promoting real and high level policy dialogue. This will need sustainable political leadership and steering from both sides and clarification of the relevant and appropriate level of intervention (i.e. continental, regional, national and local) for JAES implementation based on the subsidiarity principle.
- Strengthen the commitment of other stakeholders - especially the non-state actors (and not only civil society organizations), local authorities, RECs, regional institutions, and the formal private sector in order to build advocacy coalitions around the partnership.
- Establish stronger monitoring and evaluation mechanisms for JAES implementation by parliaments, NSAs and other relevant bodies.
- Facilitate the African financial contribution to the partnership by supporting the AUC and members states in combatting illicit financial flows and the establishment of sound management of an African Natural Resources Endowment and further deliberate on the content of the Pan-African Programme and its implementation strategy. In fact, it is not clear how the €845 million earmarked by the EU for JAES will be jointly managed with African stakeholders or indeed whether its use will be aligned with all priorities at all levels of governance.

- Establish functional and direct links with existing International, African and European decision-making structures.

To conclude, the revitalized partnership could be seen as a common structure which aims to serve socio-economic transformation and resolve the political challenges facing the two continents. It would be based on new principles, robust pillars and renewed, pro-active strategies of action.

What new principles?

- Emphasis on the political dimension of the partnership to rebuild confidence;
- Respecting the unity of Africa;
- Ownership and joint responsibility;
- Respecting human rights, democratic principles and the rule of law, as well as the right to development.

What pillars?

- Shared values and principles;
- Institutions (e.g. in governance issues, the revitalization of the Africa-EU Platform on Democratic Governance and Human Rights);
- Processes.

What new pro-active strategies of action?

- Co-management and co-responsibility in Africa-EU bilateral cooperation and on global issues;
- Burden-sharing and mutual accountability;
- Solidarity and mutual confidence;
- Equality and justice;
- Common and human security.

The state-of-play of the JAES is not completely deadlocked, but African and European partners do need to enter into clear and genuine dialogue to see where and how they can move ahead together in the new context. The challenge for the two continents is to redefine a common project for the mutual benefit of the citizens of their countries in a dynamic and very complex international environment. The choice of the theme for the 4th Africa-EU Summit, Investing in People, Prosperity and Peace (Brussels, 2-3 April 2014), is already a good sign of the will to revisit the mind-set of the JAES along with its initial ambitions. But it needs to be confirmed. 🌍



The International Criminal Court:

Challenges & Possibilities

By Dr Kerstin Carlson, Department, Co-Chair,
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I'd like to begin by extending my thanks for being invited to speak to you today.

I have been asked to speak to the "ICC crisis" in the context of the JAES treaty, which prioritizes a partnership between Africa and Europe. Specifically, I have been asked to consider diverging perspectives on the ICC (Africa versus Europe) and how to dialogue across contentious issues. My remarks today are intended to stimulate discussion regarding the ICC in a manner that acknowledges, and hopefully contextualizes, the current controversy. This is the controversy that would impute (here I am talking about the "European" perspective) impunity for human rights violations in Africa on the part of African leaders, or alternately impute neo-colonial practices, even racism, in the use of African defendants to build the ICC as an institution (here, this is shorthand for an "African" perspective on the ICC). I make these remarks in my capacity as an international criminal law scholar and social scientist interested in international law's capacity to advance transparency, good governance, and peaceful co-existence (and where required, reconciliation). I invite your questions and comments on any aspect of my talk.

International law has an interesting relationship to peace. Today, international criminal law – which is the branch of international law that makes individuals, and not solely states, the target of its enterprise – is lauded as a substitute for war. In the absence of an international legal order, it is argued, states' only option – when made aware of massive crimes – is to invade or otherwise dissuade the guilty state from such action, all of which are variations of a brute force that catches the innocent

and the guilty equally in its net. With the advent of a developed international legal order, however, when individuals violate international criminal law – which is to say, when they commit genocide, war crimes, or crimes against humanity: the crimes which are recognized as within the jurisdiction of the ICC – they risk being charged, tried, and sentenced for these crimes. This judicial process specifically targets guilty individuals, and arguably serves a wider purpose of deterring other would-be violators of international criminal law.

This theory – that law can replace violence, including at global level – is a definitive experiment of the times in which we live. Such a theory makes several assumptions, chief among them being that law and violence are distinguishable (i.e. that there is more to the practice of law than asserting authority and binding a defendant) – it is the validity of this distinction that is at issue in claims that international criminal law practices target Africans or that the "process has degenerated to some kind of race hunting". The ICC is an imperfect institution that has hardly moved except to err and it can be criticized at nearly every level. What I would like to speak about today, rather, are the challenges and, more specifically, the possibilities of the ICC. In light of considerations among African Union members to depart from the institution – and resistance among some prominent African states, including this one, to join the Tribunal at all (here, of course, Ethiopia finds itself in the company of my own country of citizenship) – I believe that a fruitful line of inquiry for today's discussion might consider what is at stake in the current "ICC crisis" beyond the political (and personal) fortunes of several Kenyan politicians.

I. Some key elements of the Rome Statute negotiations

I do not believe it is possible to discuss contemporary ICC practice without first considering the Rome Statute, the treaty which crafted the ICC, as well as how the Rome Statute came about. Of course, a comprehensive discussion of the ICC as a judicial institution exceeds our time constraints. I have therefore selected two aspects that are key to understanding what makes the ICC a unique and interesting institution.

a. Complementarity

During the Rome Statute negotiations, a key debate concerned the jurisdiction of the imagined global criminal court. Would such a court have universal jurisdiction – permitting it to reach anywhere, into any conflict, and pluck out defendants? Or would the global court work under some form of constrained jurisdiction? Universal jurisdiction – in a worst case scenario – carried the threat of a power-hungry court throwing its weight around and making a mockery of state sovereignty. A constrained court, on the other hand, risked skimping on essential human rights or becoming the henchman for a small group of state actors.

The compromise between what I will broadly characterize as state sovereignty concerns, on the one hand, and uncompromised respect for human rights, on the other, was made through the ICC practice of complementarity. Complementarity maintains that the ICC may only act if a member state is unable or unwilling to prosecute a criminal defendant. This foundational aspect of the ICC is strengthened, institutionally, by the ICC's insistence on a ratification process by which all member states must align their own domestic laws



with ICC law before they may become a member. Member states may join the ICC only through explicit concurrence with internationally recognized human rights, i.e. by specifically writing such rights into their own laws before it is possible to be recognized as a member state of the ICC. This practice has two important consequences. First, the ICC and its member states must necessarily recognize the same crimes, and there is a lessened risk that the ICC might find some behaviour criminal that is not recognized as such by a member state. This addresses the issue that has dogged all other international tribunals, the charge that they violate the principle of *nullem crimen sine lege* and apply newly-minted laws after the fact. Second, ICC member states explicitly retain their sovereignty by retaining all rights to “the first bite of the apple” as regards criminal processes against individuals violating international humanitarian law. Where a full and transparent criminal process takes place, the ICC will not (and indeed may not) act. Given the limited resources of the Court, rigorous investigation and prosecution by member states is likely to dissuade ICC investigation and indictment, enabling the Court to turn its attention to conflicts in greater need of its capacities. Thus the complementarity provision provides a meeting place for sovereignty and human rights.

b. Independent prosecutor (and not an arm of the Security Council) – currently, Fatou Bensouda (Gambia)

The second institutionally significant element emerging from the Rome Statute was the provision that the ICC be headed by an independent prosecutor capable of issuing her own indictments. During the Rome Statute negotiations in the 1990s, a great deal of pressure was exerted by nations such as the United States to situate the ICC prosecutor under the direction of the United Nations Security Council. At the Rome Statute negotiations in the 1990s, a group of countries, headed by Canada, successfully challenged the US vision and moved to decouple the ICC from the Security Council. Through a series of bold moves worthy of any political thriller, the final treaty included an independent prosecutor, not an agent of the Security Council. Thus the ICC Prosecutor enjoys the powers of *proprio motu*, the power to investigate, and indict, individuals engaged in any violations of international humanitarian law occurring in any ICC member state. While this power was perhaps the most contentious aspect of the ICC at the Court’s inception, as we shall discuss in a few minutes, it has been used to date only very sparingly, and is not in fact the source of the “African perspective” concerning the Court (i.e. the complaint that the ICC functions as an Africa-targeting, neo-colonial institution).

II. Kenyatta and Ruto indictments

Now let us move to the present focal point of the “ICC crisis.” I speak of course of the debates surrounding the ICC’s indictment of the President of Kenya, Uhuru Kenyatta, the Vice-

President Paul Ruto, and several of their deputies.

Kenya joined the ICC in 2005, making violations of international law post-dating this moment justiciable at the ICC. In the period December 2007 to February 2008, inter-ethnic violence following disputed elections claimed more than 1,300 lives in Kenya, with thousands injured and up to 350,000 displaced. The violence brought the state, by some analyses, to the brink of civil war. Moreover, this violence repeated a pattern seen for the past several decades in Kenya, where ethnic violence has been stoked to win political victories.

A Kenyan committee tasked with investigating the violence, the Waki Commission, issued a report to the Kenyan Parliament recommending the establishment of an independent domestic tribunal to hear charges against specific individuals for instigating the violence. The Waki Commission further noted that in the absence of an independent Kenyan tribunal, it would forward the information it had collected, including a sealed list of names of parties it found most responsible, to the ICC. Prominent African leaders, including Desmond Tutu and Kofi Annan, stepped in and recommended the creation of a special tribunal in Kenya. In February 2009 the Kenyan government nevertheless declined to constitute an independent tribunal, and in July 2009, the Waki Commission forwarded its findings to the ICC.

Although it is true that all cases heard by the ICC to date have been against Africans, the case against Kenyatta, Ruto and other Kenyans implicated in the 2008 violence is, in fact, the first case that the Office of the Prosecutor of the ICC has brought *proprio motu*, i.e. on its

own authority. Moreover, as discussed above, the facts surrounding Kenyatta et al.'s indictments demonstrate that the ICC was responding to a particular set of circumstances. What would it have meant had Kenya's Waki Commission, having recommended an independent domestic tribunal to address cyclical fomented violence to its own government and failing in that effort, and subsequently requesting the assistance of the ICC Prosecutor, not been met with such assistance? Might it then have become possible to assert that the ICC was deaf to the requests of African victims?

Since being indicted by the ICC, Kenyatta and Ruto have assumed leadership of Kenya, building a political platform in part on a resistance to the ICC as a new form of colonialism. While "cooperating" with the proceedings in terms of making themselves available (and thus avoiding having the ICC issue arrest warrants, as has been the case for other indictees), both Kenyatta and Ruto have campaigned vigorously against the ICC. They have pushed for Kenyan and, more generally, African, withdrawal from the ICC, actively pressing forward the "neo-colonial" argument. Meanwhile, the ICC cases against them are beset with problems. Several key witnesses for the ICC prosecution have either recanted their testimony or have died: the Office of the Prosecutor alleges obstructionism, witness tampering, and worse on the part of the defendants. Of the six individuals originally indicted, two indictments have been dropped due to lack of evidence. And while the Ruto trial commenced in September, the trial against Kenyatta, scheduled to start this month after a three month delay, has been postponed indefinitely due to prosecution issues involving evidence against the accused.

III. Contextualizing the ICC crisis

Since its founding in 2002, the ICC has issued indictments in eight violent conflicts, pursuing in total 31 defendants. All eight of those conflicts are in Africa. Of these eight indictments, the Kenya case was the first to have been initiated by the ICC Office of the Prosecutor of its own volition, as discussed above. Two indictments have been referrals by the UN Security Council. The capacity for crimes to be referred to the UN Security Council is not designed to challenge the central elements of the ICC as a member based institution headed by an independent prosecutor. Rather, this capacity is best understood as practical: before the ICC's creation, the UN Security Council had formed several ad hoc tribunals under its peace and security mandate to hear violations of humanitarian law arising from violent conflict. In the wake of the ICC's creation, in place of creating new ad hoc tribunals, the UN Security Council may now refer such situations to the ICC.

a. Self-referrals and ICC as a Political Tool

The bulk of the ICC's cases, however, have consisted of self-referrals by member states under the ICC's complementarity provisions. To date, five of the eight ICC cases have arisen under this process. This development, unanticipated by most observers at the time the Rome Statute was drafted, seems to challenge regular understandings of sovereignty. Why would a state hand over the trial of one of its own citizens to an external court? (It is not unrelated to the realistic question of why any state would voluntarily tie its hands, yet this perplexing willingness to obstruct pure sovereignty is evidenced by ICC membership, European Union

membership, and Council of Europe membership.) Yet the bulk of the ICC's practice consists in precisely this action.

While each case has own particularities, what this practice reveals is that for several African governments, the ICC has served as a useful tool. In the first ICC verdict (2012), Congo's Thomas Lubanga was sentenced to 14 years' imprisonment for the use of child soldiers. The Kinshasa government caught Lubanga, excised him from peace negotiations, and then handed him to the ICC through the self-referral process. In so doing, the government removed a prickly internal enemy and expended little political capital.

While it remains true that the ICC benefits institutionally trying African cases, and while it is also true that the self-referral process is perhaps as much managed by the ICC as it is by African governments, the fact that the bulk of the ICC's cases involve the Court in service to African governments would challenge the allegation that the ICC "chases" Africans.

b. What would the "next" ICC look like?

In October 2013, the African Union met to decide whether it should withdraw, en bloc, from the ICC. Africa, with its 34 ICC member states, has the power to inflict a heavy blow on the ICC should the African states withdraw, perhaps even destroying the Court.

The relevant question then becomes, unless we abandon entirely the rule of law in response to violence, or our shared commitment to the recognition of human rights, what would the next ICC look like? It is here that I would ask you all to think most critically. As noted, the ICC's practice to date leaves much to criticize. Yet its structure – with



respect for member state sovereignty at its centre and a work around from that other governing global body, the United Nations – imbues it with possibility. If we were to try to build a new court, could we make a better one?

c. Cotonou Article 11 and the ICC: The Peace vs. Justice debate

Finally, in conclusion, I would like to return to the question driving today's discussion, the question of peace. Some critique the threat of prosecution as "war prolonging," arguing that as human rights principles continually erode acceptance of amnesty, and as

international institutions gain strength and reach, warring parties are less inclined to come to the negotiating table. Political problems require political solutions, some would argue. African governments' own involvement with the fledgling ICC, however, demonstrate that some of them use it as a political tool. We know that law must be differentiated from politics to enjoy legitimacy but that it can never be entirely separate from politics; all laws serve a sovereign. The question facing us at the beginning of this century is which sovereign we prefer; the passing sovereign of political whim and individual interest, or the more enduring sovereign of shared rights and

consensual government. If we chose the latter, then I would submit we are all served by working together to build an ICC we can accept and celebrate. 🌍



Improving political dialogue to address contentious issues:

the case of the International Criminal Court (ICC)
By Prof Alioune Fall, Directeur du Centre d'Etudes et
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Lorsque le nombre de ratifications exigé pour l'entrée en vigueur du Statut de la Cour Pénale Internationale fût atteint, l'on ne pouvait imaginer la dimension prise par les virulentes critiques d'intellectuels africains, y compris des universitaires, et la réticence d'hommes politiques africains à l'égard de cette Cour en refusant de se présenter devant elle pour y être jugés. Aujourd'hui, on constate à l'évidence une différence de perception entre les Européens et les Africains quant au rôle de cette juridiction internationale. Plus spécifiquement, les relations entre la Cour Pénale Internationale et les Etats africains sont tendues et constituent aujourd'hui une question qui mérite bien d'être discutée. Les problématiques qui seront soulevées lors de la journée organisée le 28 février 2014 dans le cadre des « vendredis de la commission » sur le thème Dialogue Afrique- UE, sont pertinentes en ce sens qu'elles permettront aux participants d'alimenter la réflexion sur les possibilités de rapprochement entre ces positions divergentes pour une meilleure légitimité de la Cour. Cette présentation sommaire, indique de manière générale, les points qui nous paraissent les plus proches des questions proposées par les organisateurs.

I- Le constat : la divergence de vue sur la CPI entre les Africains et les Occidentaux

Si les Occidentaux semblent avoir été préoccupés depuis longtemps par la répression des crimes et par leur prévention compte tenu des expériences passées, les Africains redoutent une tromperie de la part des premiers et s'opposent ainsi, idéologiquement, à l'existence de cette juridiction sur la base du principe de la souveraineté de leurs Etats.

1 –Les raisons d'être de la Cour et sa légitimité

Il nous semble nécessaire de prime abord, que dans le dialogue entre l'Union européenne et l'Afrique, l'on revienne sur les raisons d'être de la justice pénale internationale, ses origines, son évolution et ses objectifs, même si des sommets, conférences ou colloques ont été tenus sur la question. Il nous semble en effet opportun de replacer la problématique de cette justice particulière dans sa finalité théorique, indépendamment de toutes préoccupations notamment idéologiques ou politiques.

L'avènement d'une juridiction pénale internationale est très tardive par rapport à la justice interne des Etats devant laquelle, il est admis depuis fort longtemps que des personnes physiques soupçonnées d'avoir commis des délits ou des crimes, puissent être jugées et condamnées au cas où elles sont reconnues coupables de tels actes. Fort justement, si les individus peuvent être ainsi jugés et punis devant les juridictions internes des Etats, tel ne fût pas le cas pour d'autres individus ou personnes publiques (ces dernières, pour la plupart, occupant les plus hautes fonctions de l'Etat), qui échappent à toute poursuite pénale, protégées le plus souvent grâce à une immunité organisée par des règles internes, notamment constitutionnelles. Nombre de chefs d'Etat auteurs de crimes de génocides par exemple, ont pu ainsi échapper à la justice du fait même de leur statut au sein de l'Etat. Comment faire pour que de tels criminels, protégés par leur système juridique ou leur puissance, puissent être traduits devant la justice pénale et être jugés des crimes qu'ils auraient commis? Telle est la problématique liée à la création d'une justice pénale internationale.

Cette question n'est pas nouvelle et il faut bien le rappeler. Elle fût posée depuis longtemps et à l'époque où la communauté internationale commençait à émettre l'idée de la mettre en place, elle ne pouvait concerner les Etats africains qui n'existaient pas encore en tant qu'entités souveraines - et donc en tant que sujets de droit international - encore moins les populations de ces territoires sous domination coloniale. A cette époque, les individus soupçonnés d'être auteurs de crimes devaient être certainement jugés par les tribunaux institués par les colonisateurs, ou le cas échéant par des structures traditionnelles lorsque ces dernières les avaient maintenues en place. Tout cela pour dire que l'idée de créer une justice internationale au moment où elle commençait à émerger, concernait plutôt les crimes et les violations graves de la paix ou de la personne humaine commis principalement dans le cadre occidental ou par des Occidentaux.

Les multiples tentatives qui avaient pour but de créer cette juridiction pénale internationale n'ont pas abouti. C'est dans la Convention de la Haye de 1899 que fût posée pour la première fois la question de la juridiction pénale internationale, lorsque la communauté internationale avait proclamé la nécessité de mettre en place un système ayant pour double objectif d'infliger des sanctions exemplaires aux auteurs de crimes et de prévenir de nouveaux actes criminels par la dissuasion. Rappelons également qu'on avait envisagé de créer un tribunal international spécial par l'article 277 du Traité de Versailles pour juger Guillaume II, mais cette tentative avait échoué, les Pays-Bas ayant refusé de livrer l'ancien empereur. Ensuite, l'article 6 de la Convention pour la prévention et la répression du crime de génocide du 9 décembre 1948



avait prévu de traduire les personnes accusées de tels crimes devant une Cour criminelle internationale, mais celle-ci n'a finalement pas été créée. De même que le TPI que devait instituer la Convention sur l'élimination et la répression du crime d'apartheid du 30 novembre 1977.

L'élaboration d'une base juridique pénale internationale s'est construite en réalité en réaction aux nombreux crimes, exactions, massacres et autres violations des droits de la personne humaine commis au cours du XX^{ème} siècle. Les deux guerres mondiales que la communauté internationale a connues, ainsi que les faits plus récents liés à la guerre de l'ex-Yougoslavie et celle du Rwanda ont amené cette même communauté internationale à davantage prendre conscience de la nécessité de créer une justice pénale internationale. Rappeler les atrocités subies plus récemment par les populations de ces deux pays, pourrait aider à mieux comprendre la nécessité de mettre en place une justice qui serait chargée de juger les éventuels criminels, en plus du caractère dissuasif que constituerait cette arme de la communauté internationale mise à la disposition de toutes les victimes, ce dont aucun Etat ne peut prétendre échapper à jamais. Les pays africains et leurs populations pourraient bien s'en servir un jour.

2 – Le domaine d'action de la Cour

Il serait également opportun que les Etats et leurs populations soient suffisamment informés et sensibilisés sur les actes incriminés et sur lesquels la Cour Pénale Internationale est compétente pour sanctionner leurs auteurs. Une méconnaissance des crimes concernés et de leurs définitions, ainsi que le

fonctionnement et les méthodes de travail de la Cour pourraient fragiliser sa légitimité. Les adversaires de la Cour avançant souvent l'idée de souveraineté des Etats, il est indiqué qu'une bonne information soit menée sur ces questions:

- a. le domaine de compétence : Le citoyen moyen, et surtout les jeunes générations, doivent savoir que la Cour est compétente pour juger les crimes de génocide, les crimes contre l'humanité (comme l'esclavage), les crimes de guerre et les crimes d'agression.
- b. Que signifient concrètement de telles dénominations ? Une politique de vulgarisation du contenu de ces notions et de leur portée pratique pourrait être demandée aux parties au Statut. Les Etats pourraient utilement adopter des politiques d'information allant dans ce sens.

3 – Le fonctionnement de la Cour

Sur ce point, il n'est point question d'entrée dans le juridisme. Mais il a été noté que les réticences pouvaient provenir des juges internes eux-mêmes qui voient d'un mauvais œil, la Cour juger des nationaux, comme s'il s'agit d'une immixtion dans le fonctionnement de leur justice qui est l'expression même de la souveraineté de l'Etat. Cette préoccupation légitime, devrait être apaisée en clarifiant la place de la Cour par rapport à ces juridictions internes. Certains craignent que le procureur de la Cour n'empiète sur les compétences de l'ordre judiciaire interne, d'où la nécessaire clarification sur la procédure (l'enquête, la confirmation des jugements, le procès) et l'articulation entre la Cour et l'ordre judiciaire. Par ailleurs, la coopération des Etats qui

n'est pas évidente pourrait être favorisée par une plus grande transparence et par une meilleure visibilité. Enfin, les populations pourraient elles aussi avoir une idée exacte du fonctionnement de la Cour.

II – Aplanir les divergences

La Cour Pénale Internationale a pris naissance en 2002, lorsque son Statut entra en vigueur une fois atteint le nombre de ratifications exigé. Les Etats africains ont manifesté leur adhésion à l'objectif poursuivi par cette Cour qui est de réprimer les crimes de génocide et autres violations graves sur la personne humaine. Le fait qu'un pays africain (le Sénégal) ait été le premier à avoir ratifié le Statut de Rome, est une illustration parfaite que ces Etats n'avaient pas une appréhension négative de la nouvelle juridiction internationale.

Ce mouvement est conforme aux dispositions de l'article 11-7 de l'Accord de Cotonou aux termes duquel, « les parties réaffirment leur détermination à partager des expériences concernant l'adoption d'amendements juridiques nécessaires pour permettre la ratification et la mise en œuvre du statut de Rome de la Cour pénale internationale, et (de) lutter contre la criminalité internationale conformément au droit international, en tenant dûment compte du statut de Rome ». L'on ne pouvait s'attendre à ce que cette même Cour fasse l'objet de réticences de la part de dirigeants africains qui refusent d'y être jugés.

La contestation s'est essentiellement développée sur un fond idéologique (question posée de savoir si la CPI n'est pas un instrument des Blancs contre les Noirs ou au service des pays du Nord comme ceux du Sud); en première ligne dans ce mouvement, on a vu le Soudan ou le Kenya, ou encore en Côte

d'Ivoire par les partisans de Laurent Gbagbo, mais d'autres pays pourraient suivre le mouvement; il s'est agi ensuite d'apprécier la valeur ou le mérite de ces contestations. La résolution du 1er juillet 2011 de l'Union Africaine par laquelle l'organisation régionale a refusé de coopérer pour l'exécution du mandat d'arrêt contre Kadhafi, après avoir mené la même politique deux ans auparavant à l'encontre du mandat d'arrêt contre le président soudanais, n'a fait que renforcer la résistance des hommes politiques et certains Etats à l'égard de la CPI qui se trouve ainsi confrontée à de sérieuses questions de légitimité et à un risque d'inefficacité à court ou long terme.

Pourtant, on le sait, cette même Cour allait se heurter à un mouvement de réticence/résistance de la part de dirigeants africains qui refusent d'y être jugés et qu'elle fait aujourd'hui l'objet de virulentes critiques de la part de théoriciens africains, y compris des universitaires, alors que ces mêmes Etats pour une bonne part, sont parties à l'Accord de Cotonou. Les raisons d'une telle hostilité sont diverses et ont souvent été abordées lors de colloques ou sommets organisés dans le passé.

En réalité, les adversaires de la Cour considèrent celle-ci comme le produit de deux phénomènes :

- Elle serait mise en place pour défendre des valeurs occidentales (démocratie, droits de l'homme etc.) qu'elle imposerait aux populations du Tiers-monde et tout particulièrement aux populations africaines.
- Elle serait également le produit d'une mondialisation/globalisation qui véhicule une idéologie libérale, laquelle maintiendrait encore

longtemps les Africains dans la pauvreté.

- Elle est à géométrie variable car seuls les hommes politiques africains sont poursuivis par la Cour.

Le risque est grand de voir la Cour sans justiciables si jamais les Africains décidaient effectivement de lui tourner le dos comme la menace en avait été faite par le nouveau Président kenyan. Ces divergences sont importantes et les contestations n'en sont pas moins fortes. Qu'elles soient ou non fondées, légitimes ou pas (ces questions ne sauraient être débattues dans le cadre de cette journée), une issue doit être trouvée. Encore par le dialogue et principalement par la persuasion sur les points suivants

1 – La croyance à une démocratie et à l'Etat de droit

La Cour pénale a suscité de nombreux espoirs en Afrique. Les défenseurs des droits et des libertés fondamentaux de l'homme ont été les premiers à être très sensibles à cette avancée et cela est fort justifié compte tenu des violations de toutes sortes que les populations africaines en particulier, ont subies dans le passé et qui persistent encore dans certaines régions, notamment en cas de crises internes ou régionales. La création de cette Cour est ainsi, et de manière générale, une réponse à la crise de l'Etat de droit en Afrique, comme dans toutes les autres parties du monde où cet Etat de droit, ainsi que les principes les plus élémentaires de la démocratie, ne sont pas bien enracinés du fait du déficit de fonctionnement des institutions étatiques (comme la Justice,) les fausses élections; les révisions constitutionnelles initiées à des fins personnelles etc. Sous ce rapport, nous pouvons faire allusion aux Etats

de notre continent qui sont confrontés à ce problème, à savoir la Côte d'Ivoire, la République démocratique du Congo, la Centrafrique aujourd'hui et bien d'autres Etats africains. Au-delà des institutions nationales, on constate également que les institutions sous régionales (africaines notamment) comme la Commission et la Cour que les adversaires de la Cour qualifient également d'inefficaces, pourraient davantage appuyer et collaborer avec la Cour dans la poursuite et le jugement des auteurs d'actes incriminés. Et dans cette optique, l'on s'était pris à espérer que la Cour apporterait la réponse aux très nombreuses préoccupations tant des citoyens (en manque de justice) que des dirigeants (en quête de légitimité de leur action aux yeux de la communauté internationale). L'adhésion au Statut de Rome est, quoiqu'on dise, un label de démocratisation des institutions du pays. Et le fait que le premier Etat à ratifier le Statut de Rome soit africain (le Sénégal) a été vu comme un signal très fort en ce sens. Nul ne peut contester que les pays africains souffrent de biens des maux, et surtout d'exactions souvent inhumaines commises par des dirigeants peu scrupuleux. Les discussions entre les membres de l'Union Africaine de ceux de l'Union européenne doivent continuer dans ce sens pour un renforcement de ces secteurs.

2 – Renforcer la coopération entre les Etats (concernés par d'éventuels auteurs de crime) s et la Cour par un système de complémentarité.

Le statut de Rome a prévu une compétence partagée entre les juridictions nationales et la Cour



pénale internationale. Cette dernière n'interviendra qu'en complémentarité des juridictions nationales, sous réserve que les Etats coopèrent pleinement avec la Cour dans les enquêtes et poursuites pour les crimes relevant de sa compétence (exemples des Chambres extraordinaires au Cambodge, du Tribunal spécial pour la Sierra Leone etc.). Ce point nous semble essentiel dans le dialogue qui devra s'instaurer entre les Etats.

3 – La lutte contre la pauvreté et l'effectivité d'un ordre économique international plus équilibré

La Cour Pénale Internationale est souvent présentée dans les manifestations organisées ici et là (conférences dans les universités notamment) comme le bras droit de l'économie libérale mondiale. Cela est dû au fait que la pauvreté dans les pays du Sud ne cesse d'augmenter. On sait que la sécurité, la paix et le

développement vont de pair. Les actions futures devraient être menées dans ce sens sans que cela ne reste lettre morte. La part des choses doit être faite. A supposer même que les pays occidentaux soient responsables de la situation de pauvreté dans leur majorité (idée qui n'avait pas été partagée par tous les participants au colloque d'Addis-Abeba organisé en 2012 sur le thème « Afrique-CPI. Mariage ou divorce de raison ») il est difficile de faire un lien, à l'époque, entre le génocide du Rwanda avec une juridiction quelconque. Les discussions devraient pouvoir clarifier le rôle judiciaire qui est dévolu à la Cour et les causes économiques qui sont à l'origine de la pauvreté dans ces Etats. L'affaire Thomas Lubanga est une parfaite illustration de l'œuvre de la Cour et le séminaire organisé par la Commission de l'Union Africaine le 16 octobre 2012 à Addis-Abeba sur cette affaire est un exemple de communication.

Les populations ignorent pratiquement la complexité et la technicité de la justice en général et de la justice pénale internationale en particulier. Elle n'apparaîtrait pas crédible, ni fiable aux yeux de l'opinion publique si les Etats ne mènent pas une politique de clarification à son endroit (saisine, procès etc.)

Dans cette perspective, la Cour devrait être très attentive aux périodes de crises et à celles de post-crisis, en même temps qu'elle doit agir avec les autres auteurs de crime dans les autres régions du monde, de la même façon qu'elle le fait avec les hommes politiques africains. Aujourd'hui, la presque totalité des personnes poursuivies proviennent du continent africain. Le dialogue qui va s'instaurer entre les Etats parties devra en tenir compte. 🌍



AFRICA

and the Challenge of International Justice

By Dr Barney Afako,
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In the years since the establishment of the African Union in 2002, the continent has made great strides in adopting the infrastructure and principles to promote human rights and to address conflict on the Continent. The AU today has come a long way from the positions of the Organisation of the African Union in the Cold War era. However, tensions have arisen from the implementation of international justice which came to the fore in 1998 within the Rome Statute of the International Criminal Court and the subsequent establishment of the ICC in 2002. This paper considers the emergence of international justice and how Africa has responded to this phenomenon.

Africa and the making of the Rome Statute

African States participated actively in the negotiations of the Rome Statute which created the dominant institution within the international justice system. However, since the establishment of the ICC, African states have had increasing reservations about some of the decisions taken by the court, especially in relation to prosecutions brought during conflict situations and in particular the indictments of sitting heads of state.

During the negotiations of the Rome Statute some African delegations had expressed concern about the potential of the ICC to disrupt national peace-making processes, such as the process that had led to the democratic and multi-racial dispensation in South Africa. They were reassured that the organs of the Court would take into account all such circumstances and would act to avoid the possibility of disrupting such transformational moments as those in South Africa in 1994.

When the Court started its work concerning African situations, tensions arose in part because it was considered that the ICC was focusing disproportionately on Africa, and was insensitive to African concerns and challenges. In northern Uganda, for example, the population affected by the long-running conflict expressed concern that the interventions of the ICC from 2003 would interfere with the prospects of a peaceful settlement of the conflict. These issues were to exercise the African Union in later years.

The African Union and the ICC

Although African states have ratified the Rome Statute in substantial numbers to become the largest grouping in the Assembly of States Parties of the Court, for many years the African Union did not take any particular position on the Rome Statute. Thus, when Uganda became the first country to refer itself to the International Criminal Court in December 2003, the African Union did not involve itself in that decision or in any of the other self-referrals: the Democratic Republic of Congo, the Central African Republic, Cote D'Ivoire or Mali. Even when the Security Council referred the situation in Darfur to the ICC, there was no reaction from the African Union.

All of this changed in March 2009, when the ICC issued an arrest warrant for the Sudanese President, a move that the African Union considered to be a threat to the stability of Sudan, which was already experiencing multiple security and political challenges. Since that time, the AU has woken up to the risks associated with international justice. The Union initially focused its objections on the consequences of prosecuting sitting heads of state or government

but has now extended this to a broader critique of the work of the ICC on the African continent.

In particular, since March 2009, the AU has insisted, among other things, that:

- The ill-considered application of international Justice can threaten peace and stability on the continent, especially where this entrenches political and other divides by, for instance, inducing intransigence in warring parties.
- The issuance of arrest warrants against sitting heads of states not party to the ICC is illegal under international law (here, citing article 98 of the Rome Statute).
- No African state should be asked to enforce any ICC arrest warrant against a head of state or government (or person acting in that capacity).

The 2013 Decisions of the AU Assembly

The above concerns illustrate systemic problems with international justice. In response, the Assembly took decisions in 2013 through which it instigated a process of reflection intended to produce African responses to the challenges of dealing with abuses and violations associated with the prevalent phenomenon of conflict on the continent.

In May 2013, the Assembly requested the AU Commission to work with the African Union Commission on International Law to organize a "brainstorming session" on three issues: (a) the international criminal justice system; (b) peace, justice and reconciliation; and (c) the impact and actions of the ICC in Africa – with the intention that this exercise would



help to identify “ways of strengthening African mechanisms to deal with African challenges and problems”.

Following its Extraordinary Summit in October 2013 which was convened to consider, among other things, whether or not Africa should remain in the Rome Statute system, the Assembly called for the process of extending the mandate of the African Court of Justice and Human and Peoples’ Rights to be speeded up to enable that court to try international crimes, such as genocide, crimes against humanity and war crimes. The Assembly also invited member states to ratify the related Protocol, and also invited African states party to the Rome Statute to propose relevant amendments to the Rome Statute.

A strategic response

The 2013 decisions were the latest in a range of responses by the AU to the phenomenon of international justice and represent the development of a more strategic response to this challenge which will enable the continent to articulate an appropriate response. As envisaged by the Assembly, the process of reflection on the international justice system would also extend to a consideration and distillation of African thought and experience on how to manage the demands of peace, justice and reconciliation.

Proposed amendments to the Protocol of the African Court of Justice and Human and Peoples’ Rights would give the court criminal jurisdiction and provide Africa with an additional tool to exercise criminal jurisdiction over international crimes. It is critical, however, that the newly empowered court should not merely replicate the structural defects of the ICC and international justice instruments which have generated disaffection, but should

include a capacity to take into account the broader interests of justice and society in reaching some of its decisions.

Africa faces many intractable conflicts and political crises; among others, it is grappling with new manifestations of militant Islam. These new militants cannot be answered with indictments alone, but challenge the continent to understand and respond to the ideas, motivations and incentive systems that sustain disaffection and terrorism on African soil. This will require Africa to retain at its disposal a sufficiency of instruments and flexibility to be able to respond in the most appropriate manner to the phenomenon of terrorism.

Such challenges require solutions rooted in African realities. However, Africa continues to be faced with expansive claims about the normativity or efficacy of criminal justice: impunity is projected as a root cause of all political instability and civil strife. In fact, across the continent, in Uganda, Kenya, Sudan, Cote d’Ivoire and other nations, the limits of such prescriptions are becoming apparent against the realities of deep-rooted conflict. Proponents of international justice often downplay the inherently political nature of conflict and the need for holistic solutions. No response to African conflicts can be adequate or sustainable which downgrades the political, social and economic considerations and solutions in favour of overriding criminal justice solutions.

In response, Africa needs to rediscover and safeguard its capacity to recover from divisive conflicts: a capacity it has displayed in South Africa, Mozambique, Uganda and many other African states that opted for processes of political reconciliation instead of emphasising retribution.

Conclusion

Today African states faced with conflict are encountering the demands of international justice which are posing significant challenges to the continent. Yet African states have multiple responsibilities and obligations to manage the affairs of African societies in such a manner that peace and prosperity are sustained. Justice solutions need to be put in their proper context and should not override all other considerations. Through the decisions taken by the Assembly in 2013 the continent now has a fresh opportunity to articulate its thinking on how to manage the issues of peace, justice and reconciliation, and thereby strengthen its responses to these issues. This is a key moment for the advancement of African values on peace, reconciliation and accountability in Africa. 🌍



The principle of complementarity in the Rome Statute

IN THE CONTEXT OF EU-AFRICA-EU

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Introduction

Pursuant to article 17 of the Rome Statute, the ICC shall only assume its jurisdiction in circumstances where the state has failed to genuinely investigate and prosecute a given situation where crimes under its jurisdiction have been clearly infringed.¹ These crimes include crimes against humanity, genocides and war crimes.²

Under the Rome Statute establishing the ICC, unlike most *ad hoc* security courts such as the ICTY and ICTR that take precedence over national courts, the ICC has the imperative to defer to the competence of domestic courts.³ As a result, the jurisdiction of the ICC only comes into effect when national courts are unable or unwilling to prosecute an alleged offence.⁴ This has become known as the principle of complementarity under international criminal law.

The principle of complementarity has become accepted as being suitable to deal with international crimes because the involvement of a public law dimension appeared to be at odds with an underlying system of shared social ethics, and because the international regime knows no global sovereign and in terms of morals differs from one country to another.⁵ For this reason, giving the national court the primacy to take action in a situation where an international crime was committed was considered the best way to proceed.

The preamble to the Rome Statute is clear on the fact that the ICC's jurisdiction will be complementary to that of local jurisdictions as enshrined in article 17 of the Statute.⁶ The national implementation obligations upon states which show interest in becoming a member state of the Rome Statute are

quite extensive. According to the Rome Statute, effective prosecution will only result if steps are taken at national level, including international co-operation.⁷

Pursuant to article 12 of the Rome Statute, a state accepts jurisdiction by becoming a state party, or if the state is a non-party to the Rome Statute, it can declare acceptance of its jurisdiction. Given that the ICC lacks most of the institutions required for the progressive handling of a criminal matter, such as a police force, it has to rely on the assistance and cooperation of national mechanisms and state agencies.⁸

The implementation of the principle of complementarity calls for the concomitant engagement of the principle of jurisdiction. Jurisdiction will ascertain the degree to which the criminal acts committed are under the power of a state.⁹ The general principle under international law is that for a person to be accused of crimes committed before a domestic court, one of four principles must be recognized, which include territoriality, active nationality, passive nationality and universal jurisdiction.¹⁰

An important point to be noted about the scope of universal jurisdiction is that in addition to ignoring where the offence occurred and irrespective of the offender's nationality, there need not be any nexus between the offender or the offence and the forum for prosecution.¹¹ Even where universal jurisdiction is provided to national courts under the relevant implementing legislation, the Rome Statute determines whether the ICC is competent to exercise jurisdiction or not.¹²

According to article 17 (2) (a) of the Rome Statute if, after investigation, the state which initiated the investigation fails to proceed with prosecution mainly

motivated by the desire to protect the individual concerned, and then the ICC may go ahead with prosecution.¹³ The force of the principle of complementarity errs towards establishing a presumption that the system promotes action to be taken by states.¹⁴ In this light, the ICC prosecutor stated the following:

"As a consequence of complementarity, the number of cases that reach the Court should not be a measure of its efficiency. On the contrary, the absence of trials before this Court, as a consequence of regular functioning of national institutions, would be a major success."¹⁵

Complementarity reiterates the establishment of a reliable national legislative and judicial system. Mochochoko posits that avoiding the prosecution of a few from becoming the impunity of many; the ICC makes complementarity its cornerstone.¹⁶

It is accordingly the aim of this article to discuss the challenges faced by most African national courts in implementing the principle of complementarity. The first section of the article reflects on the prosecution of heads of state who are still in office in Africa, and nefarious warlords. The second section deals with the dilemma of prosecution – "who shall bell the cat?" How would self-protection and the dangers the judges are exposed to be managed, given that nefarious warlords or powerful heads of states facing prosecution could target the judges' family or life. The third section considers the fact that intervention by the municipal courts means that only the rebels would be prosecuted and heads of state would be allowed to go scot-free. In most African countries, authoritarian as they are, the courts are spawned by the regimes.¹⁷ It is a well-known fact that an independent judiciary



is a recognized tenet of the rule of law.¹⁸

To avoid encroachment on human rights, judges have the duty - according to theorists - to reach a judgement that ensures the sense of a just application of the facts and substantive law.¹⁹ However, in Africa this is far from being true because most judiciaries are not independent but rather serve as the mouthpiece of their authoritarian governments.²⁰ As a result, national courts of justice will be reminiscent of the victor's justice and court. I will conclude with a few general remarks about the challenges and some recommendations.

In the context of this Special Session, however, it is important to discuss the principle of complementarity because this is one area where Africa-EU could forge mutually beneficial relations for the advancement of international justice. It is common knowledge that European states parties to the ICC have the capacity and means to implement the principle of complementarity within their legal systems. There is hardly any European or Western state, for that matter, that could plead poverty in the same sense as African states as the reason for the failure to implement the principle. Of course, not all European countries are equally endowed with resources but Europe, Western Europe in particular, cannot be compared to Africa when it comes to the means to implement international justice. Yet, state parties to the Rome Statute are expected to implement the complementarity principle regardless of the means at the disposal of some of them. What Europe and the West in general does not have when it comes to implementing the Rome Statute is a lack of political will to enforce it against citizens for international crimes committed abroad. In another paper also due to be presented during this Special Session, we demonstrate how senior

European politicians and policymakers are clear in saying that with or without complementarity, the ICC is not for West European or American leaders and given the conduct of the ICC this far, that much is clear.

Nevertheless, complementarity is an area where Africa-EU could collaborate to ensure the necessary capacities in deficit states so that the state parties in these two regions are put more or less on the same footing as far as this principle is concerned. Most of the current frictions between Africa and the EU regarding the ICC and its alleged partiality when it comes to African figures would not have escalated to the level it has had the two groups of states introduced cooperative mechanisms for the implementation of complementarity in international justice in Africa.

2 The principle of complementarity

2.1 Introduction

Since the last century, the world has seen many atrocities as a result of violations of human rights, principally genocide, crimes against humanity and war crimes. It was decided to put a stop to these violations and promote justice among human beings by surrendering impunity for the commissioning of such egregious crimes to accountability.

Therefore, in regard of the International Law Association at the London Conference in 2000 (hereafter ILA report) which implies that each state is entitled or requested to bring proceedings under the universal jurisdiction in respect of certain serious or grave crimes, based exclusively on the seriousness and graveness of the crimes without regard to where they were committed, the nationality of the alleged or convicted perpetrator, the nationality of the victims,

or any others in connection to the exercising state.²¹ This kind of justice is called justice without borders.

Such jurisdiction was established because, although their systems of criminal law provide justice for the victims and due process for the accused under international law, the national courts have often been unable or unwilling to do so.²²

There are different definitions of the term universal jurisdiction; the common understanding of the term is that 'universal jurisdiction is exercised by states having no relation to territorial or nationality aspects'.²³

The ILA report also specified that the connection between the crime and the prosecuting state is the presence of a suspect in that country.²⁴ However, some scholars interpret universal jurisdiction as allowing all states to exercise jurisdiction in case of serious crimes under international law even when a suspect is not within its territory.²⁵ This latter case, termed universal jurisdiction *in absentia*, is used by the Princeton Principles on Universal Jurisdiction²⁶ in its principle 1 on the fundamentals of universal jurisdiction. and it is also applied by the International Criminal Court of Justice in the case concerning the Arrest Warrant of 2000.²⁷

After the World War II, Treaties were entered into to strengthen the international institutions for international criminal law. For instance, at the United Nations Conference in July 1998, the Rome Statute of the International Criminal Court (hereafter ICC) was adopted as a universal jurisdiction and it can intervene only if national courts fail to provide justice for victims.²⁸

“In Africa there is no regional framework outlawing the principle of immunity for heads of state or other state officials. However, impunity in Africa is rejected according to the Constitutive Act of the African Union (AU) which contains key principles in article 4”

2.2 Accountability for human rights abuses

The law is not strange to the idea of holding individuals responsible for unacceptable conduct towards their fellow human beings. Domestic criminal law and part of civil law evolved precisely to regulate this behaviour. The application of this law when those committing the conduct acted with the authority of the state has followed a far less certain path.²⁹

For centuries, government officials in tyrannical states could act with impunity and while the rise of liberal government over the past 300 years or so has led to an overall improvement in the human rights records of some states, it has not, until very recently, opened the door to punishment of those officials who may continue to violate fundamental individual rights.³⁰

The only area of international law that systematically addressed violations of individual rights by states concerned actions by governments against citizens or other states.³¹ The shortcomings of international law regarding personal responsibility for government-sponsored abuses of human rights began to change after the War World I (hereafter WWI) and even more so after World War II (hereafter WWII).³²

The creation of the International Military Tribunal (hereafter IMT Charter) at Nuremberg and the related war crimes trials evinced a decision by the Allies that individual officials bear personal responsibility for outrageous conduct towards their own citizens and foreigners during wartime and ought to be held accountable.³³ As a result, the IMT Charter provided for individual criminal responsibility for violations of the laws and customs of war, as well as other abhorrent acts in connection with the

war, encompassed under the heading of ‘crimes against humanity’.³⁴

It also criminalized the war itself, and indeed made the initiation of aggressive war the chief crime of the Nazis. The IMT Charter also eliminated the defence of superior orders, command law, and act of state immunity, thereby making even heads of state open to criminal liability.³⁵ These principles were included in the Tokyo Charter and in the Control Council Law No.10, the latter of which governed many significant prosecutions of Nazis below the level of those tried before the IMT, and were endorsed by the UN General Assembly in 1946.³⁶

2.2.1 Nature of legal responsibility

The term ‘individual responsibility’ (or accountability) and ‘criminal responsibility’ (or accountability) are often used interchangeably. In fact, the two terms are neither coextensive nor opposite, but they address different facets of the law’s concerns with responsibility for human rights violations. The former concerns a *target* of responsibility for human rights atrocities.³⁷ Indeed, there would appear to be three such targets, enabling us to speak of individual, group, or state responsibility. The term criminal responsibility, however, addresses *the nature* of the responsibility. In this sense, domestic and international law recognize two broad categories: civil and criminal responsibility.³⁸

With respect to criminal liability for acts against human dignity, the Nuremberg Trials and other prosecutions of Axis defendants clearly established individual criminal responsibility for crimes against peace, crimes against humanity, and war crimes.³⁹ This concept received global endorsement when the General Assembly affirmed the principles of law from the Nuremberg judgment

in 1946 and the International Law Commission (hereafter ILC) formulated these principles in 1950.⁴⁰ Since then international humanitarian, human rights, and others instruments, including, most recently, the ICC Statute, have reflected the principle of criminal responsibility.⁴¹

Nevertheless, the issue of the responsibility of heads of state who have committed crimes recognized under article 5 of the Rome Statute, forms part of our discussion below.

2.2.2 Accountability for egregious crimes by heads of state

The principal recent provision on individual criminal responsibility in international law is laid down in article 25(3) of the ICC Statute, but does not define its constituent elements.⁴² However, it is a challenge to find other instruments in international criminal law which define the concept of individual criminal responsibility outside the ICC Statute. Therefore, individual responsibility depends on culpability and requires proof of personal guilt connected to one’s own conduct.⁴³

In general, heads of state enjoy a certain inviolability or absolute immunity which finds its origin in customary international law; meaning that they are protected from legal prosecution before all sorts of courts, national or external, no matter whether their actions are of an official or of private nature.⁴⁴

In the past, state officials were not subject to accountability because of the combination of the principle of ‘sovereignty and sovereign of the state’;⁴⁵ however, the concept of immunity has not yet impacted in national and international criminal justice.⁴⁶ In practice, the principle of immunity of state implies the promotion



of respect between states and this helps international relations to keep functioning smoothly.⁴⁷

In international law there are three documents, in particular, regarding the existence of head of state immunity: the Vienna Convention on Diplomatic Relations (VCDR article 34), the Convention on Jurisdictional Immunities of States and their property, edited by the International Law Commission, and the Convention on Special Missions and the Optional Protocol concerning the Compulsory Settlements of Disputes.⁴⁸ Nevertheless, none of them can provide a sufficient basis for head of state immunity.

In Africa there is no regional framework outlawing the principle of immunity for heads of state or other state officials.⁴⁹ However, impunity in Africa is rejected according to the Constitutive Act of the African Union (AU) which contains key principles in article 4.⁵⁰

Many scholars have written on the subject of immunity. There is no exact definition of the term immunity. Immunity, according to Oxford dictionaries, is 'the protection or exemption from something, especially an obligation or penalty'.⁵¹ This immunity from prosecution can apply at any time during the course of a trial except in front of the judge.⁵² However, in some cases immunity could be considered a barrier to individual accountability in criminal law because it excludes the criminal responsibility of an individual.⁵³

Under international law, there are two types of immunity. Firstly, there is *ratione personae* also known as 'personal' immunity when it is attached to a particular office and inuring to the benefit of the office holder only during the time of his or her mandate.⁵⁴ Secondly, immunity can be *ratione materiae* known

as 'functional' immunity, which covers only the acts performed in an official capacity.⁵⁵

Over the years several leaders and former leaders have been charged and, in some cases, prosecuted and convicted, by international courts for international crimes. For instance, the case of Omar Hassan Ahmad al-Bashir, the Sudanese President, who on 4 March 2009 became the first sitting head of state to be indicted by the ICC for crimes against humanity, war crimes and genocide.⁵⁶ He is supposedly criminally responsible for the above crimes on the basis of the criminal responsibility laid down in article 25 (3) (a) of the ICC Statute.⁵⁷

What seemed to be impossible in the past, in terms of the immunity of a head of state, has changed. Nowadays, heads of state are open to prosecution and punishment for their international crimes before international courts and even in national courts.

Article 27 of the Rome Statute establishing the ICC states that neither the immunity of a head of state nor the official position of a suspected international criminal will bar the Court from exercising its jurisdiction.⁵⁸

2.3 The prosecution of heads of state

2.3.1 Introduction

Today, further to the atrocities which occurred during the WWII, all states have drawn up comprehensive binding instruments concerning the protection of human rights with a particular focus on certain norms that are deemed to have a coercive quality and are referred to as *jus cogens*.⁵⁹

The concept of *jus cogens* was established in the Vienna Convention on the Law of Treaties (hereafter VCLT)

1969 in article 53 which states that any "treaty is void if it conflicts with a peremptory norm of general international law", defined in the following sentence as "a norm accepted and recognized by the international community of States as a whole as a norm from which no derogation is permitted and which can be modified only by a subsequent norm of general international law having the same character".⁶⁰

In the same article, the recognition of norms by the international community - from which no international agreement is allowed to deviate - represents a remarkable departure from the classical order of international law that had been characterized by the nature of international law as *jus dispositivum* and by the fact that states were given the freedom to conclude agreements on any content.⁶¹

Further information with regard to the norms pertaining to *jus cogens* can be found in the commentary of the ILC on article 53 VCLT which states that its members suggested declaring the following acts a violation of *jus cogens*: acts of violence prohibited by the UN Charter, the perpetration of international crimes, slave traffic, piracy or genocide, as well as acts violating the equality of states, and the right of self-determination or human rights.⁶²

2.3.2 Prosecution of heads of state in international law

International criminal law (hereafter ICL) implies all the prohibitions addressed to all humankind regarding the violation of their rights as contained in international law which are subject to penal sanction by the state.⁶³ The purpose of ICL is to protect individuals from serious atrocities such as crimes against humanity, war crimes, and genocide, as laid down in article 5 of the Rome Statute.

“In Africa, the legal framework for the prosecution of international crimes must rely on the Protocol for the Prevention and the Punishment of crimes against humanity, war crimes, genocide and all other forms of Discrimination”

The first attempt to prosecute a head of state in modern international criminal prosecution was after 1919 when the treaties of Versailles provided in article 227 that Germany's head of state, Emperor William II, Kaiser Wilhem had to be “publicly arraigned” for “the supreme offense against international morality and the sanctity of international treaties” before an international tribunal.⁶⁴ Yet, the Netherlands did not bring the prosecution and refused to extradite Kaiser to the Allies, granting him asylum on the basis that the crime was a political offence.⁶⁵

In a 1946 resolution of the UN Assembly General, considered declarative of customary international law, affirmed the non-applicability of head of state immunity in the event of international crimes.⁶⁶ The same provision was included in the ILC's 1950 “principles of international law recognized in the charter of the Nuremberg tribunal and in the judgment of the tribunal” in connection with crimes against peace, crimes against humanity and war crimes.⁶⁷

Moreover, in its article 27 the ICC Statute scraps substantives and temporal immunity for all public officials for “genocide, crimes against humanity and war crimes”.⁶⁸

Therefore, the prosecution and the punishment of individuals responsible for crimes against humanity, war crimes and genocide are weighed against the immunity of state officials, such as heads of state.⁶⁹ The duty of the state to prosecute and punish must prevail over immunity because those who have committed such international crimes must be held responsible for their own acts.⁷⁰

In Africa, the legal framework for the prosecution of international crimes must

rely on the Protocol for the Prevention and the Punishment of crimes against humanity, war crimes, genocide and all other forms of Discrimination, signed on 29 November 2006 by the International Conference of the Great Lakes Region, which calls for the prosecution of individuals who commit international crimes and rejects immunity of state officials.⁷¹

This Protocol represents the only robust legal document replicating the content of article 27 of the ICC Statute in its article 12, which rejects the immunity of state officials, like heads of state, and obliges all states to prosecute and punish perpetrators of international crimes.⁷²

In this regard, the situation of states which have implemented the ICC Statute at national level, such as Uganda and the Democratic Republic of Congo (hereafter DRC) and those countries which address international crimes without implementing the ICC Statute, such as Rwanda are discussed below.

2.3.3 The prosecution of heads of state at national level

The ratification of the ICC Statute constitutes significant evidence of acknowledgment of the duty of states parties to reject impunity, to prosecute and to punish those who commit international crimes. The situation of states parties (Uganda, the Democratic Republic of Congo and the Central Africa Republic) is considered here.

2.3.3.1 Uganda

Between 1971 and 1979 Idi Amin, the President of Uganda, murdered almost 100,000 or even more people and he was considered to be one of the worst tyrants of the 20th century.⁷³ Some were tortured to death, bludgeoned to death with sledgehammers or iron bars.⁷⁴

Unfortunately, he was never brought to court for his serious crimes against humanity and war crimes.⁷⁴

For many years, the Lord's Resistance Army (hereafter LRA, a rebel group led by Joseph Kony who seeks to overthrow President Museveni and install a system based on the ten commandments of the Bible) is simply a continuation of the ethnic rivalry that has characterized Ugandan politics.⁷⁶ It could be argued that the direct cause of LRA insurgency was the abusive and undisciplined behaviour of the National Resistance Army (Tanzania's troops) deployed in the north.⁷⁷

The LRA has perpetrated serious crimes recognized in international criminal law on the Acholi people and other tribes in Northern Uganda which borders on that other troubled territory of southern Sudan and the DRC with the killing of 10,000 civilian men, women and children and the displacement of almost 90% of the population in this region.⁷⁸

On 14 June 2002, Uganda attended the Rome conference that established the ICC and also ratified the Rome Statute and the Agreement on Privileges and Immunities of the International Court (hereafter APIC).⁷⁹ Despite the fact that Uganda ratified the Rome Statute in 2002, its implementation in Ugandan law took place only in 2010 with the formulation of the International Criminal Court Act (hereafter ICC Act 2010).⁸⁰

After the ratification of the Rome Statute by Uganda, in 2003 the President Yoweri Museveni decided to refer the LRA's crimes to the ICC which constituted the first situation to be referred to ICC Prosecutor Moreno Ocampo based on article 13 of the Rome Statute.⁸¹

Earlier in 2008, the Ugandan government established the War Crimes Division



(WCD) whose name was changed on 8 June 2011 in order to fulfil its obligations under the Juba Peace Talks which had begun in 2006 to bring an end to the atrocities taking place in northern Uganda.⁸²

In May 2011, a legal notice issued by Uganda's chief of justice officially established the International Court Division (hereafter ICD), the first court which has jurisdiction over serious international crimes.⁸³

The ICD has the mandate to prosecute crimes against humanity, war crimes, genocide (under articles 7, 8 and 9 of the ICC Act 2010 in the same way as under the Rome Statute),⁸⁴ human trafficking piracy, terrorism and other international crimes defined in Uganda's Geneva Conventions 1964 Act, Penal Code Act or any other criminal law.⁸⁵

However, the immunity of state officials such as heads of state is outlawed under section 25 (1) and (2) of the ICC Act 2010 in respect of crimes under the Rome Statute and under article 98(5) of the Constitution of Uganda 1995.⁸⁶

Even though immunity is granted to the president under the 1995 Constitution of Uganda, it clears that the inconsistency between the ICC Act 2010 and the Constitution may be resolved by section 24 (6) of the ICC Act 2010 which requires the minister to consult the ICC when crimes under the Rome Statute are committed by the president and that it is up to the ICC to decide whether there is any contradiction and it is clear that presidential immunity cannot prevail in respect of international crimes under the jurisdiction of the ICC and the courts of Uganda.⁸⁷

It must be understood that in an attempt to establish justice, both parties who were involved in the commissioning of

atrocities must be brought before the court of justice for the determination of who is culpable and for the punishment to be administered thereafter.⁸⁸

In respect of this, accusations of bias have been levied against the ICC, given that the atrocities committed by the Ugandan armed forces were not investigated by the country's own prosecution office.

2.3.3.2 The Democratic Republic of Congo (DRC)

Over the last two decades, two successive and complex wars have wreaked havoc on the DRC, most particularly between 1996 and 2003, involving horrific crimes recognized under international law which have been neither investigated nor all the perpetrators prosecuted, including murder, torture, the enlistment of child soldiers, the widescale rape of young girls and women, sexual violation and displacement.⁸⁹

The Congolese justice system demonstrates the weaknesses and fundamental flaws which allow impunity to continue for past and current crimes committed in the DRC under international law.⁹⁰

Despite efforts since March 2002 to bring about sector reform and fight impunity with the ratification of the Rome Statute, the outlook for national justice remains bleak. Few people have access to the existing justice mechanisms, and confidence in the system is low. Victims and witnesses are reluctant to come forward, as there is no national system in place to protect them.

Years have lapsed since the DRC ratified the Rome Statute in March 2002; but the DRC government has yet to meet its legal obligation to incorporate the statute into national law because the bill

to that effect must be approved by the Senate.⁹¹ Such legislation is essential to ensure complementarity between Congolese national jurisdiction and the ICC and to strengthen the country's legal system so it can end the ongoing cycle of impunity for all the perpetrators of the most horrific international crimes committed in the country.⁹²

Article 9 of the 2001 draft legislation, in which the DRC prepared the way for the implementation of the ICC Statute for the integration of its norms to be ratified in Congolese law, provides that it "applies to all in like manner, with no distinction made based on official capacity".⁹³ However, this 2001 draft legislation was replaced in October 2002 by a draft law implementing the ICC Statute (Draft 2 of October 2002).⁹⁴

Following the ratification of the ICC Statute, the Congolese parliament improved the Military Criminal Code (MCC) and granted it jurisdiction over international crimes.⁹⁵ The military courts have proceeded to adjudicate over international criminal offences committed in the DRC; for instance, the military court of the Garrison of Haut Katanga on 5 March 2009 convicted the Mai Mai commander Gedeon Kuyungu Matunga and 20 other combatants for serious crimes, and in the case of *Mutin de Mbandaka, Songo Mboyo* etc. it has also invoked the provisions laid down in the Rome Statute.⁹⁶

Nevertheless, under the military justice system, officers defend soldiers under their command and the political and military hierarchy protects senior military figures. This is of particular concern in a country where the army is one of the main perpetrators of crimes under international law.⁹⁷

The DRC has signed and ratified many international instruments addressing

“the principle of complementarity leaves the primary duty of the prosecution of heads of state in this context, as set out above, in the hands of local judges. In the event of failure or inability to carry out this duty, the ICC takes over. “

international crimes, such as the Geneva Convention of 1946, the ICC Statute, the ACHPR, the International Covenant on Civil and Political Rights (ICCPR) etc. Article 215 of the Constitution of the DRC stipulates that “lawfully concluded treaties and agreements have, when published, an authority superior to that of the law, subject for each treaty and agreement to the application by the other party”.⁹⁸

Therefore, all perpetrators of international crimes, including state officials, must be prosecuted and punished for their crimes. Moreover, article 10 of the 2002 draft bill provides that the law must be applied equally without discrimination or distinction based on an official position.⁹⁹ In other words, any state official - including the head of state - shall in no case be exempt from criminal prosecution and responsibility.

The provision also provides that “immunities or those special procedural rules that may attach to the official capacity of a person, pursuant to the law or under international law shall not bar the jurisdiction from exercising their competent jurisdiction over that person”.¹⁰⁰

2.3.3.3 The Central African Republic (CAR)

Since the Central African Republic (CAR) gained its independence from France in 1960, it has suffered decades of armed revolts, coups and rebellions.¹⁰¹ However, the peak of violence began in 2002-2003 during an armed conflict between the government and rebel forces led by the former Chief of Staff of the CAR army, General François Bozizé to overthrow the then President, Ange-Félix Patassé.¹⁰²

After the coup, the former head of state, Patassé, for his own protection and

the stability of the country, requested the *Mouvement de Libération du Congo* (Movement for the Liberation of Congo) (MLC) militia led by former vice-president of the neighbouring Democratic Republic of Congo, Jean-Pierre Bemba Gombo and Abdoulaye Miskine, commander of the *Unité de la Sécurité Présidentielle* (Unity of the Presidential Security) (USP) to enter the country to put down the rebellion led by Bozizé.¹⁰³

This period was marked by widescale sexual violence committed against the civilian population.¹⁰⁴ One NGO reported that serious crimes against humanity were committed; Central African civilians, for example, suffered during and after the attempted coup as a result of injuries caused by physical violence such as beatings, knife wounds, and bullet wounds.¹⁰⁵

The CAR, a state party to the Rome Statute since 3 October 2001, gives the Court jurisdiction under article 11 of the Rome Statute with respect to international crimes committed after the entry into force of this Statute.¹⁰⁶

According to Article 22 of the CAR's Constitution, the former head of state, Patassé was the supreme commander of the army at that time. Therefore, he had command responsibility over the armed forces under his control, including the regular army as well as the mercenaries he brought in to fight against such rebels as Colonel Abdoulaye Miskine and Jean-Pierre Bemba Gombo's men.¹⁰⁷

Hence, President Patassé has *de jure* and *de facto* command responsibility over Miskine and Jean-Pierre Bemba's men.¹⁰⁸ Moreover, he acknowledged the crimes his men committed against

the civilian population published by the government press and independent media and he decided to establish a commission of inquiry to evaluate all crimes that took place during this period.¹⁰⁹

Therefore, based on the previous paragraphs, Patassé is culpable by omission, as he disregarded his own obligation to deal with the crimes that were committed and also failed to prevent future violations.¹¹⁰

On the basis of command responsibility Ange-Félix Patassé should be held individually criminally responsible for the war crimes committed by Colonel Miskine and Jean-Pierre Bemba and his subordinates, as provided for by article 28 of the Rome Statute.¹¹¹

Nevertheless, under article 5 of the Rome Statute, the government referred the situation of war crimes committed on CAR territory to the ICC Prosecutor in January 2005.¹¹²

In 2007, the ICC opened an investigation into crimes committed during 2002-2003 and the investigation has led to only one case, that of Jean-Pierre Bemba Gombo.¹¹³ Arrested on 24 May 2008, Jean Bemba Gombo is allegedly criminally responsible for five counts of war crimes and three counts of crimes against humanity committed on CAR territory.¹¹⁴

The present ICC Prosecutor, Fatou Bensouda, has however declared her intention to continue with the prosecution of crimes under the jurisdiction of the ICC that were further committed after 2005 until 2013.¹¹⁵

2.4 Conclusion

The ICC functions differently from national criminal courts in a number of important respects. The primary



responsibility to investigate and prosecute crimes rests with national authorities.¹¹⁶ The origin of the principle which governs the functioning of the ICC is the principle of complementarity operating before its acceptance by the national state.¹¹⁷

The ICC also has a limited jurisdiction based on the territorial principle and the active national principle, apart from the principle of complementarity between the ICC and the national court.¹¹⁸

Although the ICC effectively functions only if the national state ratifies the Rome Statute, the provisions of the ICC already have an intervening impact on a state's justice.¹¹⁹ However, the jurisdiction of the Court is activated only when there is unwillingness on the part of the state to prosecute crimes under article 5 of the ICC Statute (crimes against humanity, war crimes and genocide) or an inability in the event of a collapse of the judicial system or there is a lack of effective means at national level.¹²⁰

Thus, the admissibility of a case by the Court may be possible in the event that applicable international standards under article 21 of the Statute of Rome have not been implemented in the national legal system, including the Statute, as a consequence of an 'incapability' on the part of the national jurisdiction to provide justice in the case concerned.¹²¹

The ICC can act where its jurisdiction has been accepted by the state where the crimes occurred and it can also act in states which are non-parties to the Rome Statute or are in the process of implementation, *lato sensu* (in general) to avoid such crimes being committed on their territory by state officials or by their nationals in a third state.¹²²

The Court may also intervene in any situation referred by the UN Security

Council, appealing to its powers under article 13(b) of the Rome Statute which stipulates that "a situation in which one or more of such crimes appears to have been committed is referred to the prosecutor by the Security Council acting under chapter VII of the Charter of the United States" even for crimes committed by nationals of or on the territory of non-state parties.¹²³ For instance, the situation in Darfur Sudan was referred to the ICC Prosecutor by the Security Council in its resolution 1593(2005) on 1 July 2002.¹²⁴

3. "Who shall bell the Cat"

This section aims to show the lack of security for judges in Africa compared to ICC judges in discharging the same duty.

The point of departure is that the principle of complementarity leaves the primary duty of the prosecution of heads of state in this context, as set out above, in the hands of local judges. In the event of failure or inability to carry out this duty, the ICC takes over.

The polemic here is that the local judge has a very daunting task to carry out compared to that of the ICC judge, the local judge lacks security in terms of his remuneration and protection of his life.

It should be remembered that a local judge lives in the same jurisdiction as the warlord or head of state he is prosecuting. Nefarious warlords could come after his life or his family because local judges are not given enough protection by government. Again the head of state he is prosecuting has enough financial power to mobilize an illegal militia to persecute the judge.

3.1 Security of remuneration

A good way to promote judicial independence is to grant life tenure for judges which, ideally, frees them to decide on cases and make rulings based on the rule of law and judicial discretion, even where those decisions are opposed by powerful interests. Nevertheless, the financial security of judges in Africa seems to be a worried issue.

In the DRC, article 149 of the Constitution states: "The judicial power is independent from the Legislative Power and the Executive Power".¹²⁵ Nowadays, judges are manipulated by politicians and are accused of corruption because they try to supplement their poor salaries due to the lack of resources and capacity and the fact that they are facing major challenges of independence.¹²⁶

On 6 January 2004, 1700 judges in DRC suspended a strike demanding better pay and conditions, as well as greater independence of action without resolution of any of their demands.¹²⁷

Sambay Mutenda Lukusa, president of the Gombe Court of Appeals and president of the judges' union said "The financial question was part of our larger concern of ensuring an independent judiciary". At that time, the salaries of judges were between \$15 and \$40 per month and they were asking for their salaries to be increased to at least \$950 per month with a supplement of \$40 per month to pay the salary arrears.¹²⁸

However, there is still a financial autonomy and financial security problem that leads to corruption on the part of judges. The judiciary receives less than 1% of the national budget; so they are unable to live comfortably without being tempted to corruption

or needing to do other work alongside while they are struggling to provide the basic needs for their families, e.g. healthcare, housing, transport, education for their children and food for their families.¹²⁹

3.2 Security of person (independence of the judiciary)

The origin of the principle of an independent judiciary can be found in the theory of a separation of powers, whereby the executive, the legislature and the judiciary form three separate branches of government. This independence means that the judiciary must be able to decide on a case without being influenced by the executive, the legislature or any other person with power.

However, experience shows that they are often subjected to pressures of different kinds, compromising their ability to exercise their responsibilities.

The DRC's judiciary system shows a lack of independence in the administration of justice. Notwithstanding the principle of separation of powers enshrined in article 149 of the Constitution, the executive continues to interfere with the judiciary.

In the DRC, serious crimes may only be judged by military courts under the military criminal code which covers international serious crimes of the ICC Statute. However, the professional response of the military courts is mediocre¹³⁰ for several reasons including financial security, as explained above, interference in the administration of justice by the executive in order to protect leaders of armed factions from being prosecuted, and political pressure exerted on prosecutors to abandon proceedings that have already begun against former allies among the leaders of rebel or resistance movements.¹³¹

On 12 May 2006, former Mayi-Mayi chief of North-Katanga Gédéon Kyungu Mutanga received protection from his former allies in the government in Kinshasa in the form of pressure to influence the investigation and instead of being held in a cell, he was held in pre-trial detention in the officers' mess of the DRC (FARDC) armed forces.¹³²

Maître Charles Katambay, a member of the NGO *Groupe des Sans Voix* of the DRC Bar Association and an association for the defence of judges, was shot and killed on 25 May 2003 by a soldier from RDC Goma (the *Rassemblement Congolais pour la Démocratie*, a guerrilla rebel faction) in front of his house in Uvira. His work in support of human rights is believed to be the reason for his assassination.¹³³

In Uganda, judicial independence is guaranteed by article 128.¹³⁴ In today's Uganda, some members of the judiciary come under pressure in making their judicial decisions. In 2004, the constitutional court delivered a judgment on the Political Systems Act 2000 considered by some to be unconstitutional.¹³⁵ A few days later, President Museveni made a statement saying "the major work for the judges is to settle chicken and goat theft cases but not to determine the country's destiny", which was considered to be a warning concerning the judiciary's independence.¹³⁶

In 2007, Ali Mutasa of BBC Africa reported that judges in Uganda are concerned about their freedom and their independence, referring to the fact that by ignoring its directives the government does not respect the authority of the judiciary.¹³⁷

In 2005, judges of the constitutional court - fearing for their lives - were forced to return Dr Besigye, charged

with rape and treason (often linked to the rebel group People's Redemption Army (PRA) accused of plotting a coup by the government) to prison after being threatened by armed men known as 'Black Mamba' despite their decision to release him on bail conditions.¹³⁸

In brief, President Museveni does not respect the rule of law: he used soldiers to invade the nation's High Court to intimidate judges and bribed Ugandan parliamentarians to amend the constitution to remove presidential term limits. The removal of term limits makes Museveni *de facto* president for life.

3.3 Conclusion

The judiciary shall decide all cases before them impartially in accordance with the law, without any restrictions, improper influences, and pressures direct or indirect from the government or any powerful person for any reason.

4 Conclusion and recommendations

4.1 Conclusion

Given the numerous challenges facing local African courts in complying with the principle of complementarity, it is evident that a lot still needs to be done if this principle is to gain ground in international criminal law. It should be noted that there are significant dangers when states are allowed to refer cases to the ICC as delineated under the competence of referrals to the ICC. Firstly, in most African states, relinquishing power by the incumbent authority has never come easily.

This conduct has led many of the citizens who have become fed up with these authoritarian governments to turn to rebellion as a last resort to overthrow such illegitimate governments who have tightened their grip on power



against the will of the people. In the course of such struggles, gross human rights violations are registered in both camps. However, the state is always quick to refer these rebels to the ICC as a means of eliminating opposition to their power rather than as an attempt to curb human rights violations given that they themselves are not absolved from such actions. The referrals of Thomas Lubanga from the DRC and Joseph Kony from Uganda by the various states attest to this paradigm.

Secondly, accepting jurisdiction by the state over egregious crimes committed during the armed struggle by the opposing warring factions simply means that the government acts as judge in its own cause given that in most African states, as shown above, the courts are a pawn of the regime and the separation of powers is mainly symbolic or nominal. In such situations, no local court will ever rule against a sitting head of state even if it were to be proven beyond all doubt that he had committed a gross human rights violation. Therefore, the principle of complementarity faces two main challenges in domestic implementation. If the local courts intervene, the verdict could be manipulated by the ruling executive. But when the matter is referred by the state to the ICC, this is most probably politically motivated rather than a desire to serve justice.

4.2 Recommendations

National interest should be considered in the cause of shaping international crisis. The principle of national jurisdiction to prosecute offenders under international human rights law should apply to everyone regardless of the existence of immunity for heads of state to avoid insubordination.

Therefore, it is recommended that the international community adopt measures

which expressly define the position of former heads of state, particularly in Africa. While the Rome Statute seems to remedy the existence of immunity for heads of state by providing that every person regardless of his or her position is subject to the jurisdiction of the court where the violation of human rights is concerned. Nevertheless, it is not a guarantee, because the ICC exists as a complementary court to national jurisdiction and is not an exclusive court in international matters.

It is also recommended that the African Union should adopt a resolution to establish an international tribunal capable of prosecuting former heads of state of Africa instead of leaving prosecution in the hands of their national courts after the incumbents leave office. This will remove the influence and threat directed towards the judiciary by heads of state by eliminating the option of surrendering their power for fear of facing criminal responsibility under international law. This process will also create confidence and in time will establish the independence of the judicial authority from executive power in the implementation of the rule of law in Africa and respect for international human rights for Africans.

All African states must implement the Rome Statute to ensure that grave and serious international crimes do not go unpunished and to end impunity at all national levels.

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Future-proofing the Africa-EU Partnership:

African CSO Perspective

By Joseph Chilengi,
Chairperson, AU CSO Steering Committee
Africa-EU Joint Strategy

General context

Lisbon set out to achieve a very ambitious and much needed *transformative agenda*. It aimed at building a *political partnership* based on *mutual interests*. Over the past five years, the Joint Africa EU Strategy (JAES) was to some degree useful in providing some degree of structure to the partnership between the two continents.

But it also faced several challenges, including a lack of *political traction from both sides*, a *non-optimal institutional set-up*, *divergence on key issues* (i.e. trade and international justice systems) and *limited financial resources* to be able to showcase the added value of having a new framework.

In addition to these challenges it is important to note that the EU-Africa partnership will operate in an even more complex context than the one of 2007. Africa partners have developed new frameworks (see next point), the EU is witnessing a revival of its economy while dealing with persistent internal challenges, and the international balance of power is in constant flux. The partnership will need to anticipate the impact of this new context to ensure its sustainability and relevance.

Fostering a way forward: key messages

Stakeholder Participation

I wish to express my appreciation of the submissions and, indeed, most of the key demand areas are covered in the existing key messages. Two refinements could be proposed, however, as follows:

1. Increase and deepen stakeholder involvement and contribution to the Africa-EU partnership process. There is already a call for greater inclusiveness of civil society etc. but the requirement here demands something higher. In the current discourse, inclusiveness focuses on participation of Civil Society Organizations (CSOs) and other actors, but deepening the process implies going upstream and downstream. It involves assigning more critical responsibilities to non-governmental and non-state actors and broadening the scope of their activities in the implementation strategy. The objective is to redefine the partnership as an effective multi-stakeholder enterprise.

2. As a logical corollary too, there is the need to stimulate and sustain a dynamic interplay between the different facets of the partnership enterprise, security, governance, democracy, development and migration etc. so that the effect of action in one area will create a multiplier effect in another. It may be useful in this context to have a framework for teasing out and reinforcing the cross-cutting links in the process.

African CSOs see the partnership between African and European citizens and their institutions, such as member states and regional parliaments, but we have been concerned by the limited presence and participation of the indigenous European civil society. All we see is European civil society represented by international NGOs based in Brussels, such as Human Rights Watch and others, speaking on behalf of European citizens. African CSOs see this as diluting and defeating the whole purpose of European citizens and their institutions partnering to enhance living standards and development.

Cross-cutting messages

1. Change perceptions on both sides

To move forward the partnership requires a change in **perceptions and attitudes**:

- a. On the **EU side**: need to move beyond “conditions” to embrace “co-responsibility”, respecting pace and ownership of African reform processes;
- b. On the **African side**: need to recognize that the EU is not a homogeneous group of former colonial powers but that it also includes young democracies that became independent as recently as the 1990s; growing self-criticism and assertiveness: support “home grown” initiatives, review strategic partnerships and mobilize own resources to maintain independence of action (i.e. tackling the long-standing asymmetry in the partnership);
- c. **For both**: recognize **common interests** where they exist AND “**agree to disagree**” on issues of divergence. The two are not mutually exclusive.



2. Link up with owned frameworks

African institutions and civil society are in the process of concluding their reflections around the future development agenda of the continent (i.e. Agenda 2063). The Agenda, which provides milestones for the next 10 years, is designed to be the *guiding framework* for Africa's development but also the basis to negotiate Africa's international partnerships and international positions i.e. on the post-MDGs framework.

Discussions around the Agenda 2063 come at a time when Africa and the EU need to reflect on the priorities for their future cooperation. Therefore, it will be vital to consider how the priority areas of the EU-Africa partnership are aligned to the African priorities as articulated in the Agenda 2063 and notably its 10-year milestones. This would ensure that there is ownership and political traction to back the partnership.

3. Structure follows function

It is imperative to discuss the institutional set up of the JAES in light of its intended function. As initially conceived, the JAES was meant to be a political and people-centred partnership. Yet the institutional set-up was deficient in both these elements (poor political traction and limited involvement of civil society). It will be important to go back to basics when discussing the new institutional set-up.

Thematic messages

1. Trade

Negotiations to reach Economic Partnership Agreements between Europe and African countries are now more than a decade old. The process has been long and protracted and most African countries have been asked to open up their economies to levels far too ambitious compared to their level of development. This has caused tension, frustration and mistrust. Technical solutions to bottlenecks have been thoroughly explored and it seems now that a breakthrough requires a political approach that will preserve the political and economic interests and objectives of the EU and Africa alike, to strengthen rather than undermine their strategic relationship. If unresolved, this could be a key hurdle at the forthcoming joint summit.

Therefore...

On the process:

1. While many individual African countries see the EPA as a means to preserve their market access in Europe, at least in the short term (because Europe is also engaged in trade negotiations with other partners, and therefore the preference margin of African countries will ultimately be eroded), it could undermine their own regional integration agenda and the efforts of African Union to work towards a continental FTA, in line with Agenda 2063. The reasons for this are:

- a. Since regional integration agendas are not complete in Africa, countries will give greater preference to Europe than to their own neighbours within their own regional groupings.
- b. Similarly, the boosting of intra-African trade agenda is only just starting, and many countries would have opened up to Europe already, giving them much more preference than they would to other regional groupings. African products will therefore be faced with competition from European products (in agriculture, in particular, where products are subsidized).
- c. EPAs lock countries into their regional configurations. Since not all market access is identical (West Africa has opened up 75% to Europe; Eastern and Southern African countries have varying degrees of openness, ranging from 80% to 98%), it will be difficult to construct an African single market with a customs union unless all countries become aligned to the most open one.

On the content:

1. African countries are being asked to make the commitment that if they enter into trade negotiations with larger economies in the future, they will extend any preferences to Europe (if they give more to these countries than under EPAs). This constrains the policy room for negotiations even before they have begun. African countries would not be able to get a better deal.
2. African countries are being asked to remove export taxes and not to apply any in the future. In the current context where the continent is developing its industrial policy, this constrains their policy room to protect their infant domestic industries who will be faced with competition from the European private sector. Today, the European private sector is even subsidising its SMEs to reach out for business and market access in Africa.

3. Level of openness: countries are being asked to liberalize their market by 80% (75% agreed in West Africa). African countries are heterogeneous, with different economic structures. EPAs fail to recognize this. Treating African countries as if they are a single homogenous economy constrains countries in taking economic measures that will allow them to improve their economic conditions.
4. Finally, the fact that Europe has at least six different trade schemes in Africa¹ complicates matters for continental integration (EPAs for some; generalized system of preferences (with a standard preference for lower middle income countries, and duty free/quota free for LDCs); a special trade agreement with South Africa; a special trade scheme for North Africa; and no preferences for upper middle income countries).
4. The role of the private sector is key: here we mean space to nurture, promote and develop an indigenous African private sector that will be able to create jobs, develop ideas, be innovative, etc. While FDI is much welcomed, it is important to strike a balance to ensure that the local private sector can take off.
5. Fighting illicit capital flows: it is important to cooperate with international partners to fight the scourge of financial drain from multinational companies. This has to be a collective effort on the part of the countries concerned and the multinationals themselves.

2. Natural Resources and industrialization

The key issue here is that so far, Africa has been exporting raw materials and has not managed to add much value to them. As a commodities exporter, it is subject to the volatility of commodity prices; to geo-political interests that have driven new partners to grab resources; to excessive dependence on the export of raw materials, etc. Although rich in resources, countries, on average, remain poor and their economies too dependent on commodities. Recent high growth rates have not yet been transformative. In addition, the extractive industries are not creating enough jobs to absorb the burgeoning youth.

Therefore...

1. It is imperative for Africa to industrialize and add value to its natural resources. No country in the world has managed its economic transition without industrialization;
2. Industrialization should be done through links both inside the extractive sector (i.e. beneficiation) and outside the extractive sector (i.e. by using resources from extraction sectors to finance other sectors of the economy like agriculture and services);
3. It is important to ensure that infrastructure (physical infrastructure; energy, ICT) is available at a competitive price;

3. Governance and shared values

It is widely recognized that good governance and respect for human rights, as defined in

international standards, are cherished by the average European and African alike. African human rights standards, which are championed by different human rights groups and pan-African institutions, are based on internationally agreed standards.

The recent disagreements surrounding homosexual rights are increasingly becoming an irritant in the partnership between European countries and Africa. Some EU countries have also decided to suspend their development cooperation to certain African countries (i.e. Uganda) as a result of anti-homosexual laws being passed in some African countries.

This issue raises again the question on the use of conditionality and the shared values base on which the partnership is founded. It highlights the need to further define the parameters of the shared values that will guide the future partnership, taking into account the respective values of each continent as well as the priorities in the partnership.

4. Post-2015 framework

African stakeholders have agreed on a draft Common African Position on the post-2015 framework. The position is currently being further refined by the Sherpas of the High-level Committee on the Post-2015 Development Agenda (last meeting held in Ndjamena on 25 February 2014).

Africa and the EU have the potential to agree on a common position on the post-2015 framework. However, the pace of consultations on both continents may mean that it may not be possible to present a common position at the EU-Africa summit. This does not stop the two continents however from exploring the possibility of an alliance around this question.



Additionally, when discussing the financing of the post-2015 framework it is important also to be aware of the fact that the AU is also exploring alternative sources of funding to finance the implementation of its Agenda 2063. It will therefore be important to ensure synergies between the different frameworks to ensure that the available resources can be used optimally. 🌍

End Note

1. The EU has at least six trade schemes with Africa: 1) Under its Generalized system of Preferences (GSP), which is its standard preference scheme available to all developing countries. LDCs benefit from full duty-free and quota-free market access to the EU without having to give anything in return to the EU; 2) Lower middle income countries have preferential access to EU market mainly for products that are not sensitive for European producers; 3) Upper middle income African countries have no preferential access to the EU market, unless they sign an EPA. Today, Gabon and Congo Rep have no preferences; 4) EPAs - so far, four Countries (Mauritius, Seychelles, Mada, Zimbabwe) have signed an EPA. ECOWAS (15 countries) are likely to do so. They will have a different trade regime to the EU; 5) South Africa has a separate trade agreement - a Trade and Development Cooperation Agreement - with the EU since 1999; 6) North Africa-Europe has signed FTAs with a number of North Africa countries and is even thinking of having a broader framework across the mediterranean - (EUROMED Agreement). This is not helpful for continental integration.



Making Africa-EU Relations Future-Proof

By Amb. John Kayode Shinkaiye,
Director, UBA Capital Plc.,
Lagos, Nigeria

Introduction

The programme was divided into three sessions with the first session comprising a retrospective examination of Africa-EU relations over the past ten years and the state of play of the Joint Africa-EU Strategy. The panellists addressed issues such as how the partnership had fared since the Cairo Summit of 2000 and the Lisbon Summit of 2007. They also examined where the partnership had contributed positively, what challenges it had faced and asked the question of whether the JAES was a good framework to enhance the partnership.

The second session focused on improving political dialogue on contentious issues focusing on the case of the International Criminal Court (ICC) to illustrate the type of divide that could occur as Africa and Europe attempt to deepen their common values.

My own session which concluded the process dealt with the main theme of the event, "Making Africa-EU Future-Proof". Building on the two earlier sessions, we sought to identify some key messages to guide the partnership beyond the 2014-Summit.

Making Africa-EU relations future-proof

In my view, the panellists during the first session did an excellent job and facilitated the task of the final session. In this regard, I want to say that I do agree, largely, with the assessment made, especially by Geert Laporte of ECDPM, Dr Jack Mangala, Dr Maurice Engueleguele, Amb Olusegun Akinsanya and Amb Gary Quince. Their identification of the successes and challenges were also, in my view, largely apt, as were some of the recommendations they made to ensure a future-proof Africa-EU Partnership.

Since the presentations by the panellists will be available in print, I need not go into the details of each of them. I will however, make a few comments to outline the issues our own panel dealt with.

It is generally the view that relations between Africa and Europe have deepened and have been largely beneficial to both sides since the first summit held in Cairo in 2000. They have also greatly evolved after that Summit, which some European countries had originally envisaged to be a one-off event to such an extent that we can now talk about a "future-proof" partnership. For me, as someone who was there at the beginning, one of the positive developments since Cairo has been the vast improvement in the dialogue between the two sides and a reduction of what some of us on the African side regarded as the dictatorial nature of the communication from the European side. Discussions have become more collegial and genuine attempts are often made, by both sides, to see how best to accommodate the other's point of view and concerns. A future-proof Africa-EU partnership must ensure that this becomes the norm rather than the exception.

And yet, as was pointed out by the panellists in the first session, there are still issues of perception – perception regarding how Europe treats Africa – which call into question some of the cardinal principles of the partnership, in particular, those relating to the partnership as being one between equals and treating Africa as a single entity. One panellist referred to this as African "fatigue", a "patronising" EU attitude, "double standards", and "schizophrenic actor." The issues surrounding the EPA negotiations would, in my view, prove the point that it is more a reality and not

just a perception that we are dealing with here. The meeting agreed that this had to change and talked about a paradigm shift.

Making the Africa-EU partnership future-proof also requires several other steps. Many of these were identified by the panellists in the first session. One area relates to what should be the essence of the partnership, that is to say, where should the areas of focus lie?

In this respect, I suggest that both Africa and the EU must urgently agree on the priority areas for the partnership and what mechanism (or mechanisms) should be put in place for the implementation of these agreed areas.

With respect to the priority areas, I understand that there is no agreement yet on this but every effort must be made to obtain such agreement before the Summit. I understand that the African side has proposed five areas, namely: the promotion of peace and security; democracy, good governance, human rights and cultural cooperation; continental integration; sustainable development and emerging issues and human capital development.

While the EU has proposed three priority areas, namely: peace, democracy and human rights; sustainable growth and tackling global issues.

A closer look at the details of the African and EU proposals will show that there is already a large convergence of views. However, it is the emphasis which one party wants to put on some of the proposals which greatly differs or might differ from that of the other. For example, while Africa wishes to emphasize development, the EU agrees with that but sometimes places this within the context of acceptable human rights practices by African countries and governments.

“relations between Africa and Europe have deepened and have been largely beneficial to both sides since the first summit held in Cairo in 2000”

With respect to the governance mechanism, there seems to be a consensus on the fact that the JAES is still the way to go. However, the JAES has been criticized, and rightly so, for its shortcomings. What is therefore needed is to ensure that these shortcomings are addressed and it seems to me that both sides are willing to do that.

In this regard, I have seen some of the proposals from the African side regarding the structure to be used. These include retaining the summit at three yearly intervals; continuing the Commission to Commission and Joint AUC-EC Task Force meetings but broadening the latter to include member states and civil society organizations (CSOs); a reformed Joint Experts Groups and resuscitation of the Ministerial Troika meeting which has been moribund since 2010 when the European External Actions Service (EEAS) came into being.

Other recommendations I would like to make, many of which were also made by the panellists in the first session, are the following:

- (i) Both sides in the partnership must make efforts to implement what they sign up to. In doing this, there must be uniform application of policies and practices for all regions and countries. This is to say that what is done in one part of Africa should apply to others too. This should not be influenced, as sometimes happens, by the interests one party has in one region/country but not in the other.
- (ii) As one panellist indicated, the partnership must be made more beneficial to the people of both parties. A buy-in by Africans and Europeans will ensure that the partnership lasts beyond

personalities and regimes. In this respect, more concrete involvement of CSOs from both continents must be fostered.

- (iii) Each party must respect each other's values, beliefs and practices. In the earlier session, the issue of gay rights and African governments' or countries' positions came into focus. The African side insists that practices that are alien to Africa must not be forced down their throats by friends, sometimes with threats to review assistance if laws duly enacted by parliaments are signed into law by African leaders. This is what prompted President Yoweri Museveni of Uganda to say that, "There's now an attempt at social imperialism, to impose social values".
- (iv) Both parties need to learn to agree to disagree on areas or issues where there is a divergence of views. So far, this has not always been the case as the discussion in the second session on the ICC shows. It is recalled that EU and Western interference on this issue led to Malawi not hosting the Summit when it was due to, and the radicalization of views on the part of some African countries on the ICC matter is traceable to the fact that Africa's arguments and views have not been heard. Similarly, on Libya, the EU did not listen to Africa and went ahead to intervene there, along with the US and NATO, without giving Africa a chance to find a negotiated solution. Perhaps, now with the benefit of hindsight, it may be realized that Africa's solution could have led to a different Libya than we now have with all the challenges it continues to face.

- (v) The African side must take its engagements very seriously by devoting the time and resources required in negotiating with the EU and in the implementation of agreed programmes. The EU is a lot more experienced, better resourced and has greater human resources than Africa. Therefore, in engaging with the EU, Africa must deploy its best resources in order to safeguard its interests.

- (vi) On its part, the EU must not allow its values alone to be the driving force in its relationship with Africa. If it does so, it might want to put in place conditions which do not always work. Europe must also recognize that other players have entered the game and have a relationship with Africa. Europe's initial reaction to this is probably what informed the cartoon which appeared in the *Courier* in 2010 with the caption, "Is Europe-Africa a Good Marriage?" The cartoon answers the question, I think, because it shows an Indian looking priest pronouncing China and Africa (with the latter as the bride!) "man and wife", with a European-looking man lamenting – "Oh Africa – I think I've missed a big opportunity!"

My advice is that there is plenty for all in Africa and if Europe feels it has lost out to China and others, the 4th Africa-EU Summit is an avenue to show that Europe can maintain its ground in Africa through building acceptable practices that will make the Africa-Europe partnership an enduring and mutually beneficial one.

“Both parties need to learn to agree to disagree on areas or issues where there is a divergence of views.”

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(vii) I have reserved as the final point what I consider to be one of the most important shortcomings that must be rectified if the JAES is to be a success. As the panellists in the first session identified, financing the JAES has had some difficulties largely because of the funding mechanisms currently available. There is need to change this by providing easier access to funding as has been repeatedly requested by the African side. If the information at my disposal is correct, perhaps this matter is on its way to being resolved through

the creation of an Africa-wide and Africa-dedicated funding envelope. It would be one major positive achievement of the 4th Summit if a definitive pronouncement were to be made on this.

It is also important that the African side makes sustained efforts to contribute financially to the funding of the partnership. I believe no one expects Africa to provide funding to the same level as the EU. However, it makes eminent sense for Africa to be seen to be making a fair contribution in order to be able to claim the right to equal partnership in the process.

My final point is: can Africa and Europe have a common vision, as we seem to be preaching? That is going to be a tough one to achieve but it would a noble one which both Africa and Europe should aim for. If all the constraints identified are dealt with in sincerity, the vision of the two continents can come closer together such that we can speak of one vision. The 4th Africa-EU Summit must make the realization of this one of its main objectives. 🌍

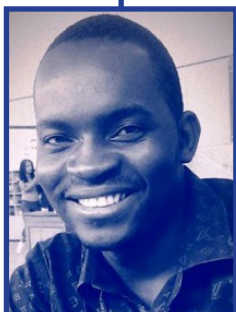
Messages from young people

Theresa Watwii Ndavi is an econometrician from Kenya with a background in economics and statistics. She is currently deployed as a Youth Volunteer in the AUC, where she works as a statistician and data analyst. She enjoys playing the flute and squash and is in favour of freedom and fairness in all things. You are welcome to contact her at: watwii.ndavi@gmail.com



“The Africa-EU partnership should be considered as one which is strategically and mutually beneficial and not necessarily as mandatory. It should be used to share significant experience from both sides and to learn from any good practices that emerge. We have no choice but to work together and engage with each other, seeing as we all coexist in this “global village”. Regional issues that are deemed contentious should be left to the individual regions to sort out as they see fit without a “big brother” type interventions. This would prevent any form of coercion or bullying from either side.”

To start with, I wish to point out the fact that this partnership is still going strong ever since it was established in 2000. However, concerns could be raised about the relevance of such a partnership in terms of improving the living standards of African people. Viewed from a global perspective, I wonder if Africa is really in a position to make the most of this partnership, Economic Partnerships Agreements (EPAs) being a case in point. A strong African common position is required to make sure that EPAs really benefit the continent and take African interests into consideration.



Yougbare Boubakar,

Youth Volunteer of the African Union Commission



Le partenariat Afrique-Europe, solidement ancré dans la passé doit faire sa mue en intégrant la nouvelle donne des relations internationales. Cette exigence lui permettra de repartir sur de nouvelles bases dans l'intérêt supérieur des populations des deux (2) continents.

La mise en œuvre intégrale des décisions du 4e Sommet Afrique Europe Conduira à cette voie. Et pour y parvenir, chaque partie doit pleinement assumer sa part de responsabilité.

Barbara Ambela,
Joint Africa – EU Strategy Support Mechanism



In order to improve the relationship between the two partners, Africa needs to contribute more towards achieving the objectives. Not only through its natural resources but based on its culture of diligence, hard work and persistence.

Yvonne Ajudua,
Youth Volunteer of the African Union Commission



EU-Africa Summit Sommet UE-Afrique

Bruxelles 2014 Brussels

Les Echos of the 4th Africa – EU Summit

THE 4TH EU-AFRICA SUMMIT TOOK PLACE IN BRUSSELS ON 2-3
APRIL 2014 UNDER THE THEME:
“INVESTING IN PEOPLE, PROSPERITY AND PEACE”.

Summit Statements

- *Statement by the Chairperson of the African Union Commission*
- *Statement by the EU president of the European Council*

Outcome documents

- *Declaration*
- *Declaration on Migration and Mobility*
- *Roadmap - 2014-2017*

Others

- *5th EU-Africa Business Forum - Joint Business Declaration*
- *CSO Brussels Declaration on the JAES*



The Summit brought together more than 60 leaders from Africa and the EU, and a total of 90 delegations, to discuss the relationship between Africa and Europe particularly the future of their relationship and ways to reinforce links between the two continents.

Remarks By H.E. Dr Nkosazana Dlamini Zuma, Chairperson Of The African Union Commission On The Occasion Of 4Th Africa – Eu Summit

Wednesday 02 April 2014, Brussels (Belgium)

H.E. The President of the European Union H.E. Chairperson of the African Union H.E. Chairperson of the European Commission Excellencies Heads of State and Government Excellences Commissioners Distinguished Participants Ladies and Gentlemen

On behalf of the African Union Commission, our appreciation to the European Union for hosting this important Summit. We thank the Kingdom of Belgium for the warm hospitality and arrangements to make the Summit a success. The contributions of many others that worked tirelessly in the preparations of this summit are acknowledged and appreciated.

Excellencies,

Ladies and Gentlemen,

Let me start, by referring to late President Mandela when he said: “I have walked a long road to freedom, I have missed steps along the way, but discovered the secret that after climbing the Great Hill, one only finds that there are many more hills to climb.

I’ve taken a moment to rest, to steal a view of the glorious vista, to look at the distance I’ve come. But I can only rest for a moment, for with freedom comes responsibilities and I dare not linger. For my long walk is not ended.”

The Africa-EU partnership has come a long way since the first Africa-EU Summit in Cairo in 2000 and we probably missed a few steps together in our partnership. In 2000, Africa was regarded as the 21st century development challenge and a moral scar on the conscience of humanity.

Fourteen years later, Africa is the second fastest growing region in the world, public and private investment in infrastructure is on the increase and there is tangible progress on a number of social indicators, many of them due to our joint efforts.

We witnessed changes to the political landscape of the continent, with democratic elections becoming the norm, demonstrating our collective commitment to promote a political culture based on legitimacy, inclusion and accountability.

Although stubborn pockets of conflict remain, causing immense suffering and devastation especially for women and children; progress is being made through the African Peace and Security and Governance Architectures. We acknowledge the continual generosity of Europe’s contribution towards peace in Africa.

There are however, many more hills to climb.

Excellencies, Ladies and Gentlemen

To address these challenges, the AU focuses on a set of pan-African priorities, captured by the African Agenda 2063, with elements reflected in the 4th Summit’s theme of People, Prosperity and Peace.

Firstly, the African people as is the case with the European people, are our most valued resource. The health, education, nutrition and general wellbeing of our populations therefore remain critical development priorities, now and in the future.

With a growing and young population, Africa needs a skills revolution and to scale up investments in science, research, technology and innovation. Investing in people also requires the empowerment of women and young people.

For our partnership, this means working together on training and skill development. Given the different demographic trajectories of our two continents (one young and the other ageing), in the near future we may have to share this human resource with you. It is in both our interests that it is a skilled human resource.

The Common African Agricultural Programme, African Mining Vision, African Industrial Development Plan and other frameworks are positioning Africa to harness and benefit from its vast natural resources, including land,



water and forests; minerals and energy, and its rich biodiversity and oceanic resources. Europe has great experience in all of these areas, and if we work smartly, coupled with indigenous African knowledge, we can all benefit from this.

Africa must therefore be given the policy room for its farmers and industries to compete fairly. We must address the contradiction that we are being asked to eliminate tariffs in 80% of trade, making African farmers even more vulnerable in the face of so called 'non-trade distorting' domestic support to farmers. This will not only impact on agriculture, but also on our nascent industries in all sectors, and put a halt to African industrialization and diversification.

Africa needs the policy room to determine for itself what needs to be done with its natural and mineral resources, so that the continent can at last break out of the mould of exporter of raw materials, whilst jobs are being created elsewhere.

Our pan-African priorities furthermore include speeding up infrastructure development, the integration of the continent (including the creation of the Continental Free Trade Area) and improving intra-Africa trade and trade with the world. Our trade agreements must reinforce, rather than undermine the possibility of this African Free Trade Area and the growth of intra-African trade.

There are a number of further sectors of cooperation, such as infrastructure investment through the Africa 50 private equity fund of the African Development Bank. We want European companies to form partnerships with local African businesses and entrepreneurs, to invest in agri-businesses, food-processing, green and blue economies, textiles, ICT, manufacturing and other growing areas. We also need to work together to stop illicit flows of capital from the continent.

We must take forward cooperation in the preservation of African biodiversity and forests, the protection of animal species, its fishing resources and in addressing the

impact of climate change on the continent, in a manner that strengthen African capacities and institutions. This is necessary for humanity, not only for Africans and we must therefore increase capacities to protect our flora and fauna.

Excellencies,

None of the above can materialize and progress without silencing the guns. We must therefore redouble our efforts to bring peace to South Sudan, CAR, Mali, Darfur, Somalia and the DRC, and consolidate peace in countries emerging from such conflicts.

African leaders committed to silence the guns by 2020, by addressing the root causes of conflicts, such as trade and the dumping of small arms, destabilization to plunder our natural resources, as well as transnational crime and terrorism. Africa has a duty to build societies that are inclusive, democratic, accountable and tolerant; that respect human rights and manage diversity and ensure that no one is marginalized or excluded.

As we therefore survey the vistas that surround us, we must ensure frank engagements, and strengthen our partnership, based on mutual understanding of each other's challenges, opportunities and aspirations.

I thank you. 🌍

*Intervention du Président du Conseil européen
Herman Van Rompuy
lors de la séance inaugurale du quatrième sommet
Union européenne-Afrique*

Après Le Caire, Lisbonne et Tripoli, je me réjouis de voir l'Europe et l'Afrique se réunir au plus haut niveau à Bruxelles. Votre présence témoigne de l'importance que revêt la relation Union Européenne-Afrique. Il s'agit d'une relation particulière, d'une relation dynamique. Nos sociétés, nos continents, changent rapidement, et il est donc essentiel que nous nous réunissions régulièrement. Pour voir où nous en sommes, où nous allons... Et aussi pour prendre du recul: peut-être même pour s'affranchir de la vision passée que nous avions de l'autre – et de nous-mêmes.

L'Afrique: le plus vieux continent du monde, et le plus jeune aussi. Le berceau de l'humanité tout entière, où vit aujourd'hui la population la plus jeune de tous les continents. Et nous-mêmes, en Europe, un autre "Vieux Continent", nous nous renouvelons aussi. Aujourd'hui, 28 États européens coopèrent très étroitement au sein d'une Union; c'est une aventure unique. Nous apprenons encore constamment, par exemple pour ce qui est de la manière de gérer ensemble notre monnaie unique, grâce d'ailleurs à de nombreuses décisions prises ici même, dans cette salle, par les chefs d'État ou de gouvernement européens.

Ce sommet concerne à la fois l'Europe et l'Afrique. Nous avons nos problèmes en Europe – défis économiques, chômage des jeunes, et maintenant une crise à l'est qui fait ressurgir les fantômes du passé. La gestion de la crise ukrainienne passe par une solution négociée, dans le plein respect du droit international. C'est un défi pour la communauté internationale tout entière.

Make no mistake: there are things on which Europe needs Africa's help. We need your help to tackle climate change, which threatens all of us; to manage migration so that it benefits both of us; and to improve the security of both our continents.

Europe has long been committed to helping Africa bring an end to conflicts on the continent. We fervently support your aspiration to silence the guns by 2020. We provide financial assistance through the African Peace Facility. Funds assigned for the next three years have been almost doubled. We also deploy European Union civilian and military missions and operations from Mali to the Democratic Republic of Congo and the Somali waters. And yesterday the Union decided to launch its ninth African operation. It will support efforts in ' the Central African Republic. And this we do in full cooperation with the United Nations, the indispensable partner for all of us. We are all also united in finding a determined response to extremism and terrorism through our joint actions in the Sahel.

But Europe is – and also wants to remain – your largest trade, investment and development partner. We will both grow faster if we can grow together. Opening up trade will benefit both sides. Further cooperation with third parties is equally welcome and will be of benefit to all.

The themes we have chosen address people's everyday concerns – their safety and security, their job prospects, and their future as families and individuals. All should be able to live free from fear and all should have the possibility to prosper where they live. It is now for us, as leaders, to signal the strategic direction for our partnership, to set our priorities for the future, and to confirm our commitment to deliver them.

To conclude, again I wholeheartedly welcome all of you but I would like to extend a special welcome to both you, President Aziz, as President in Office of the African Union, and Dr Dlamini-Zuma, Chairperson of the African Union Commission, as well as to you, Mr Secretary General of the United Nations and of course my colleague and friend, the President of the European Commission.

EUCO 89/14 2 



EU-Africa Summit Sommet UE-Afrique

Bruxelles 2014 Brussels

Fourth EU-Africa Summit

2-3 APRIL 2014, BRUSSELS

DECLARATION

Introduction

1. We, Heads of State and Government of the European Union (EU) and Africa, the President of the European Council, the President of the European Commission, the President of the African Union (AU) and the Chairperson of the African Union Commission (AUC), met in Brussels on 2-3 April 2014. We took as our theme “Investing in People, Prosperity and Peace”, with the objective of addressing common challenges and bringing concrete benefits to our citizens in accordance with the Joint Africa-EU Strategy (JAES). Recognising the high degree of interdependence between Africa and Europe and guided by the shared principles of equal partnership and joint ownership, we take particular pride in the breadth and depth of our partnership, which is firmly rooted in our shared values of democracy, the respect for human rights, rule of law and good governance as well as the right to development.
2. We reaffirm our commitment to the objectives set out in the Joint Africa-EU Strategy adopted at our Summit in Lisbon in 2007. We take note of the very real progress made, including in the Tripoli Declaration of our third Summit in 2010, and reaffirm our determination to give a new momentum to our partnership. We agree to mobilise resources to this end.
3. Since 2010, important developments have taken place on our continents.

4. Africa has achieved significant progress in democracy, governance and human rights which however remains to be consolidated. Africa has experienced pronounced economic growth: a growing number of countries and people are reaching middle income status and attracting increased investment flows. Yet this growth has not been sufficiently inclusive or even, both between as well as within countries. The Continent continues to face significant challenges. Africa is celebrating the 50th Anniversary of the Organisation of African Unity/African Union. There is an opportunity for a transformation at continental, regional and national levels to ensure that Africa's potential is realised and its economic integration achieved in a sustainable manner and in line with the AUC Strategic Plan 2014-2017 and Africa's Transformation 2063 Agenda. This will enable Africa to become a key player in the global arena.
5. The EU economy suffered a recession but returned to a path of growth in 2013. Job creation will remain a serious challenge and an important priority, especially in providing employment opportunities for young people. The EU has made significant progress in strengthening the architecture of its Economic and Monetary Union, deepening its Single Market, implementing the Treaty of Lisbon and undertaking structural reforms by Member States to pave the way for smart, sustainable, and inclusive growth as well as for regulating their financial sector.

6. We are convinced that the growth of our two continents will be mutually beneficial: our economies remain closely linked, and we will work to ensure that the growth of the one will help the other. We are also convinced that trade and investment and closer economic integration on each of our continents will accelerate that growth.
7. People must remain at the heart of our partnership, so we pledge today to provide them with the opportunities they need. It is the essence of our partnership that we tackle these challenges more effectively if we tackle them together, to the benefit of our citizens. Our joint agenda will have people, prosperity and peace and security at its core.

Peace and security

8. Peace and Security are essential prerequisites for development and prosperity. In Africa and in Europe, conflict and instability can undermine all our efforts to reduce poverty and to accelerate growth. We pledge to ensure a transparent, democratic, accountable and peaceful environment for those we represent, and to uphold our common values and goals in pursuit of good governance, democracy and the rule of law. We commit ourselves to respect all rights and principles set out in the Treaties and Charters that we have respectively signed and ratified, and to work together in all countries to respect our peoples' demands for justice, reconciliation, respect for international law, human rights, gender equality and dignity.

9. We reaffirm our commitment to peace and security on both our continents in conformity with the aims and principles of the United Nations Charter.
10. We confirm our rejection of, and reiterate our commitment to, fight impunity at the national and international level. We undertake to enhance political dialogue on international criminal justice, including the issue of universal jurisdiction, in the agreed fora between the two parties.
11. We strongly support the African aspiration and commitment to ensure peace, security and stability in Africa, in the framework of the African Peace and Security Architecture (APSA). In order to improve the African capacity to predict and prevent or respond to crises, we are committed to operationalise the multidimensional African Standby Force and to recognise the African Capacity for Immediate Responses to Crises (ACIRC), as a transitional and complementary tool to the African Standby Force for further enhancing the AU's capacity to respond rapidly to crises, and to reinforce the support to the Continental Early Warning System. We welcome the progress made to date in enhancing the capacity of the AU and regional organisations to manage crises on the continent. We acknowledge the successful deployment of peace support operations by the AU in Darfur (Sudan), Somalia, Mali and the Central African Republic, and the collective efforts in the Great Lakes and South Sudan to reduce conflict in those countries. We pay tribute to those who have lost their lives fighting to preserve peace or who suffered as victims of those conflicts.
12. We agree to support these efforts to enhance African capacities in the field of peace and security through the range of means at our disposal, with a particular focus on capacity-building. This should enable African partners such as the AU, regional organisations and individual countries to better provide for security and stability in their own regions. The African Peace Facility has played a crucial role in supporting AU operations and the APSA, so we agreed to sustain the level of resources available to it and to seek ways of redefining targets, while complementing it with African resources. Within the framework of the EU's comprehensive approach to tackling conflicts and its causes, and building on experiences of Common Security and Defence Policy (CSDP) missions and operations, such as those in Mali, Niger, Democratic Republic of Congo, Somalia and the Central African Republic, the EU remains committed to work in close collaboration with Africa, in the framework of the APSA, in support of African led peace operations and, more generally, African efforts in areas like Security Sector Reform, Border Management, Peacebuilding or Post-Conflict Reconstruction or Reconciliation, through the provision of advice, mentoring and training. In addition, the supply of equipment is an option, either as a complement to CSDP missions and operations or as part of stand-alone measures.
13. We undertake to strengthen our common efforts to fight international terrorism, its related threats and transnational organised crime, including the trafficking of human beings, wildlife, natural resources, and drug smuggling.
14. We remain committed to combat the spread of small arms and light weapons as well as the proliferation of weapons of mass destruction.
15. We continue to work together to fight illegal fishing and illegal dumping of toxic waste.
16. We undertake to cooperate more closely in preventing conflicts and further agree on the importance of tackling the root causes of instability, fragility and conflict in order to prevent its recurrence and achieve sustainable recovery in line with the International Dialogue on Peacebuilding and Statebuilding, as well as AU initiatives in this area. We support post-conflict reconstruction, so that after each conflict, efforts are undertaken for populations to benefit from peace dividends.
17. We underline the importance of addressing all aspects of the conflict cycle from preventive action through to post conflict reconstruction and development. We agree that justice and nationally inclusive reconciliation processes are crucial for sustainable peace and pledge to support efforts of African partners and regional organisations in this respect.



18. We reaffirm our willingness to protect women and children affected by armed conflicts, prevent sexual violence particularly affecting women and children, and promote gender mainstreaming in the prevention, management and resolution of conflicts and crises and in all stages of the peace-building process, in line with the UN Security Council resolution 1325.
 19. We recognise the particular importance of tackling growing threats to maritime safety and security, including piracy. We acknowledge the international efforts off the coast of the Horn of Africa in which the EU naval operation Atalanta has been playing a key part. In this regard, we agree that emphasis should also be placed on addressing poverty and underdevelopment as possible causes of piracy. In order to achieve concrete results we undertake to work together to support the building of local maritime and judicial capacities to deal with these threats, in line with Africa's Integrated Maritime Strategy 2050 and with the EU Integrated Maritime Policy, through CSDP mission EUCAP Nestor and by enhancing regional cooperation in both the Horn of Africa and in the Gulf of Guinea. Africa and the EU recognise and encourage initiatives taken by African countries bordering the Atlantic with a view to promoting peace and security in that area.
 20. In responding to these threats to peace and security on our two continents, we recognise the vital importance of the international community acting together. We therefore reaffirm our determination to ensure that multilateral institutions and treaty regimes are the main fora for international cooperation on peace and security. Essential for success is close cooperation between ourselves, with the relevant regional and sub-regional organisations, the UN and its agencies, and with other international coordination mechanisms such as the G8++ clearing house for Africa.
 21. We are committed to addressing non-traditional challenges to peace and security in areas such as climate change, water, energy and cybersecurity which have an increasing influence on economic and social development.
 22. Moreover, we recognize the need for further reform of the main UN bodies to make the whole UN system more efficient and transparent and adapt it to substantial changes that have occurred in the international community and for members of the UN.
- Prosperity**
23. We pledge ourselves to pursue policies, together with social partners, that will create jobs and stimulate environmentally sound, inclusive, sustainable and long-term growth on both continents.
 24. In Africa, such policies shall promote economic transformation based on agriculture, green growth, industrialisation and value addition, the development of economic infrastructure and the service sector. We stress the importance of good governance at the highest level and of a conducive international environment including the international economic and financial institutions as elements contributing to the achievement of sustained and inclusive development and economic growth.
 25. We will cooperate more closely in the field of maritime policy, especially blue growth, protection of the marine environment and biodiversity, maritime transport and maritime safety and security.
 26. The EU and Africa are determined to adopt, in Paris in 2015, a fair, equitable and legally binding Agreement under the UN Framework Convention on Climate Change and guided by its principles, which will apply to all parties and come into effect by 2020 at the latest. This Agreement should have a more universal and more efficient scope to produce results in terms of mitigation, adaptation, finance, technology development and transfer, transparency of action and support and capacity building. The EU and Africa are committed to initiate or intensify domestic preparations for their intended nationally determined contributions towards achieving the ultimate objective of the Convention and to communicate them well in advance of the twenty-first session of the Conference of the Parties by the first quarter of 2015, by those parties ready to do so. The EU is determined to support Africa in this regard.

27. The EU recognises that developed country parties should maintain continuity of mobilisation of public finance at increasing levels from the fast-start finance period in line with their joint commitment of mobilising USD 100 billion per year by 2020 from a wide variety of sources in the context of adaptation and meaningful mitigation and transparency of implementation.
28. The EU will continue to support African countries in the preparation of national and regional climate-resilient and low-emission development strategies to reinforce the resilience of their economies to climate change, in particular in sectors such as agriculture and access to sustainable and renewable energy in the context of the United Nations Sustainable Energy for all Initiative.
29. We recognise the vulnerability and the specific challenges faced by Small Island Developing States (SIDS), some of which are in Africa. We take note of the upcoming Conference organised for their benefit by the UN in Samoa and we will work together to making it a success.
30. We recognise that investment in research, science, technology and innovation is fundamental to achieve those objectives in particular, and to sustainable development of our societies in general. With this in mind, we welcome the High Level Policy Dialogue on science, technology and innovation held between the two continents.
31. We want to foster strong domestic growth and use our respective resources efficiently to our people's advantage in the global economy. The transformation of agriculture to provide food resilience, food and nutrition security and a dynamic commercial sector is particularly important in Africa. To this end, we therefore agree to support in the framework of NEPAD the Comprehensive Africa Agriculture Development Programme whose objective is notably to achieve higher growth by developing a better functioning agriculture market and to ensure region-wide food security. We take note of developments in the EU Common Agricultural Policy and we will work towards achieving progress as regards coherence with the objectives of agricultural development in Africa.
32. Proactive measures are required to address the problems of land degradation, desertification and drought affecting many regions in Africa. We take note of the signature of a cooperative arrangement between our two Commissions to use European space science and technology to monitor ecosystems through the "Global Monitoring for Environment and Security (GMES) and Africa" initiative.
33. We recognise that preserving existing and creating new jobs including in the manufacturing sector is a high priority for both continents. Faster industrialisation and modernisation of the enterprise sector is essential for many African countries which is to be premised inter alia on the transformation and value-addition of raw materials at the source as a catalyst for industrial development which is essential to reach middle income status. We commit to ensure prudent and transparent management of respective natural resources in the interest of our populations in particular in conflict affected areas in line with principles of good governance. In order to complement the African policies in the above fields, the EU recalls its approach to responsible mineral sourcing and proposes a dialogue on these issues.
34. We will continue our cooperation to preserve biodiversity and ecosystems on both continents.
35. We pay particular attention to how to encourage greater investment within our countries, between our continents and from outside. There is a need to improve the business climate in order to make it favourable for attracting internal and foreign investors and for existing businesses, including small and medium-sized enterprises (SMEs) which have a particularly vital role in job creation. Access to affordable credit, stable political, judicial and regulatory environments, and labour markets respecting international labour standards are important factors in all our countries. So too is promoting corporate social responsibility and building greater transparency in finance to help combat corruption and illicit financial flows, including through the development of fair and effective tax systems.



36. To allow for the economies of scale that can stimulate such investment and growth, we confirm our strong belief that greater economic integration is necessary. Important elements to this include building productive supply capacity to take advantage of more fair and open trade, building up the markets to facilitate it, and putting in place the necessary infrastructure and governance reform measures for investments to be successful. We look to the private sector, in partnership with government, to play a larger role in economic growth and development.
37. On the way to greater economic integration, we will cooperate to develop transport, access to drinking water and to sustainable and affordable energy, with a particular focus on renewable energy and energy efficiency. We recognise the strategic importance of promoting interconnections in the areas of energy and transport between the two continents.
38. We also recognise the important and strategic role of the 'virtual' infrastructures enabled by the Information and Communication Technologies (ICT), in particular the internet. We agree to further boost the uptake of ICT and the roll-out of an inclusive, open and secure information society that contributes to growth, development and the full enjoyment of human rights. We recognise the importance of the protection and promotion of Human rights on line, in conformity with the Universal Declaration and relevant international treaties on Human Rights, including the International Covenant on Civil and Political Rights and the International Covenant on economic, social and cultural rights.
39. We fully commit to the successful conclusion of the Doha Development Agenda and to the preparation of the World Trade Organisation's (WTO) post-Bali work programme which contributes to the greater integration of developing countries into the multilateral trading system. We will take all possible steps towards realising this commitment in line with the respective mandates on developing countries issues. The EU remains committed to support African countries engaged in the accession process to the WTO and we are committed to the implementation of the Trade Facilitation Agreement.
40. The EU pledges its support to the AU decision to fast track the establishment of a Continental Free Trade Area (CFTA) in Africa and offers to draw on its experience of building the Single Market to provide capacity support to this initiative. We will continue working on outstanding Economic Partnership Agreements (EPAs) with the aim to foster intra-African trade, Africa's regional integration efforts and the planned CFTA. In this regard, both parties should continue negotiations on EPAs by exploiting all the possibilities to reach a satisfactory conclusion of development-oriented and WTO-compatible EPAs that promote African integration, economic transformation and industrialisation, and ensure the prosperity of nations to the benefit of both continents. It is important that Africa and Europe develop globally competitive industries that can succeed in today's global markets and contribute to sustainable development. EPAs should be structured to ensure that our trade expands and that it supports growth of intra-regional trade in Africa.
41. The EU and concerned North African countries are also committed to continue bilateral negotiations for Deep and Comprehensive Free-Trade Areas that will expand market access in areas not yet fully open.
42. We will explore modalities to exchange information on the implementation of trade agreements and their implications for Africa's regional integration and industrial development agenda.
43. It is time for a fundamental shift from aid to trade and investment as agents of growth, jobs and poverty reduction. There is nevertheless still a valuable role for development assistance; we acknowledge the EU decision to maintain the level of its development assistance including aid for trade. We pledge to work together to make aid more effective.
44. We fully acknowledge the positive contribution to our debates from the EU-African Business Forum that took place in the margins of our Summit. We therefore support such engagements between the private sectors of our two continents on a regular basis.

People

45. Upholding human rights in Africa and Europe is our duty and we will work together to ensure that the African Human Rights Year in 2016 is a success. Aware of the fact that the AU's vision is the realisation of "An Integrated, prosperous and peaceful Africa, driven by its own citizens and representing a dynamic force in the global arena" and also taking into consideration the national dynamics of each African country, we will increase cooperation in support for international human rights and international humanitarian law. We shall hold regular consultations on civil, political, economic, social and cultural rights. We shall pay particular attention to gender equality, the rights of the most vulnerable groups, including people with disabilities, the elderly and refugees, as well as to women, youth and children's rights.
46. In the framework of our cultural cooperation we pledge to continue efforts in fighting the illicit trade in cultural goods and to work towards protecting national archives.
47. We are jointly committed to pursue our efforts towards reaching the Millennium Development Goals (MDGs) by next year (2015). We are convinced that the post-2015 development agenda provides a unique opportunity to realise our common vision of a peaceful, just and equitable world that is free of poverty and respects the environment. We will work in partnership, during the upcoming negotiations, to support the

definition and implementation of an ambitious, inclusive and universal post-2015 development agenda that should reinforce the international community's commitment to poverty eradication and sustainable development. We underline the need for a coherent approach which embraces the three dimensions of sustainable development – social, economic and environmental – in a more balanced and integrated manner, based on peace and security, and democratic, responsive and accountable institutions. In the spirit of our partnership, we will continue to cooperate closely in this endeavour.

48. All should be able to enjoy the dignity of work. We emphasise that jobs with labour rights, social security coverage and decent income contribute to more stable growth, enhance social inclusion and reduce poverty. We aim to unlock the entrepreneurial potential of our people with a special emphasis on women and youth - and to foster innovation in their businesses, so they can develop themselves, their communities and the wider economy. We confirm that as previously stated the achievement of these objectives will be accomplished by investing in science, technology and innovation and we commit to support cooperation in these fields.
49. We commit ourselves to equip our citizens insofar as we can with the knowledge, skills and services they need to take advantage of the opportunities that growth provides and lift the neediest from poverty.

To that end, we will pursue policies that will promote inclusive job creation with a focus on young people and women, including through vocational training and education.

50. Higher education has a particularly important role to play in enhancing citizenship and democratic values as well as providing a country with the skilled workers, managers and administrators that will foster sustainable development and encourage the trade and investment needed. We agreed to promote student exchange programmes between our two continents and within Africa.
51. Providing affordable, sustainable and quality health care accessible to all, including access to medicines, is a particular challenge. We agreed to address it by intensifying our existing bi- and multilateral cooperation to give adequate attention to the development of productive capacity with particular emphasis on youth empowerment, women empowerment and gender equality, the eradication of poverty, education for developing human capital and the provision of universal and equitable access to quality healthcare.
52. Migration, mobility and employment are key issues for us all. The serious social and human impact of irregular migration should be effectively tackled in a comprehensive way, including by addressing its root causes and among other means by ensuring an effective and concerted return



policy between countries of origin, transit and destination.

53. We are appalled by the loss of life caused by irregular migration and remain more than ever committed to further action to avoid such tragedies in future. We reiterate our unambiguous commitment to continue fighting trafficking in human beings, which is a new form of slavery.
54. We are committed to ensure that human rights of all migrants, including those of the diaspora and victims of trafficking, are fully respected. We recognise the positive contribution that well-managed migration and mobility make to countries of origin, destination and to the migrants themselves. We will work together to mobilise the potential of migrants for development and to reduce the cost of remittances, including through the consolidation of the African Institute for Remittances. We set out our approach in more detail in the attached statement.
55. We are committed to fight all forms of discrimination, racism and xenophobia, and all acts of intolerance on both continents.

56. We affirm our commitment to join our efforts on pursuing the objectives of Africa and EU policies on labour employment and social protection with particular focus on SMEs.

57. We take note of the Africa-EU civil society organisations' forum meeting of October 2013 and of the youth forum of April 2014.

Implementation

58. We took note of the scope and progress of our Partnership.
59. We reaffirm our desire to hold regular political dialogues at ministerial level, notably in the margins of international events.
60. We endorsed the Roadmap that sets out strategic priorities and identifies the means to implement them in areas of mutual interest and have agreed that our priorities for the period 2014-2017 are:
 - Peace and Security;
 - Democracy, Good Governance and Human Rights;
 - Human Development;
 - Sustainable and inclusive development and growth and Continental Integration;
 - Global and emerging issues.

61. We will jointly pursue the identification, where needed of the working mechanisms and structures required to implement the agreed actions and reach the expected results.

62. We take note that implementation of the priorities will draw on a wide range of financing instruments and policy initiatives. Over the period 2014-2020, more than € 28 billion will be provided by the EU to Africa which will come in addition to bilateral cooperation on the part of EU Member States.

Conclusion

63. We agreed to meet again at our Fifth Summit in Africa in 2017. 🌍



EU-Africa Summit Sommet UE-Afrique

Bruxelles 2014 Brussels

Fourth Eu-Africa Summit

2-3 APRIL 2014, BRUSSELS

EU-AFRICA DECLARATION ON MIGRATION AND MOBILITY

We, Heads of State and Government of the European Union (EU) and Africa, President of the European Council, the President of the European Commission, the President of the African Union and the Chairperson of the African Union Commission,

ACKNOWLEDGING the benefits that migration and mobility can bring to both our continents, and that a comprehensive approach to migration and mobility are powerful vehicles for boosting sustainable economic, social and environmental development for countries of origin, transit and destination, as well as to migrants themselves;

RECOGNISING our common goal to maximise the development impact of migration and mobility, to improve migration governance and cooperation in countries of origin, transit and destination and to promote the role of migrants as agents of innovation and development;

ACKNOWLEDGING that migration and mobility between and within our continents present both opportunities and challenges;

STRESSING the importance of addressing the root causes of irregular migration between Africa and Europe and bearing in mind the importance of finding alternatives to this phenomenon including by providing employment opportunities for the youth at regional level;

ACKNOWLEDGING that further efforts should be made to better organise legal migration and to foster well-managed mobility as well as to encourage policies that facilitate labour migration, including at the regional level;

DEEPLY CONCERNED by the serious social and human impact of irregular migration and the loss of life caused by it, and more than ever committed to undertake action to avoid such tragedies in future by effectively tackling irregular migration and adopting a comprehensive approach to migration management, within the context of strict observance of human rights and human dignity;

EXPRESSING GREAT CONCERN that trafficking of human beings as a modern day form of slavery constitutes a serious crime and an infringement of the fundamental human rights of the victims;

UNDERSCORING the importance of prosecuting smugglers and traffickers and dismantling their criminal networks as they present a serious threat to the lives of migrants;

RECOGNISING that Diasporas create strong human ties between our continents and that they contribute significantly to the development of countries of origin and destination;

REITERATING our common commitment to fight all forms of discrimination, racism and xenophobia, and all acts of intolerance on both continents, and to ensure that the human rights of migrants, including those of the diaspora and victims of trafficking, are fully respected in both continents;

STRESSING that fully enforcing the international legal instruments on international protection is an urgent need that should be promoted and placed at the centre of the Africa-EU cooperation;

RECALLING the importance of maintaining the link between migration and mobility policies and other policy areas, especially employment and higher education, within the broader framework of the Africa-EU Partnership;

COMMITTING to further dialogue and deepening of our cooperation in the field of migration and mobility within the framework of the Joint Africa-EU Strategy, through a global and concerted approach to maximise their development impact on both Africa and the EU;

We express our strong and unambiguous political will to address all the challenges related to inter and intra-continental migration and mobility and to build on their opportunities.

We commit to ensuring that the importance of well-managed migration and mobility as drivers of inclusive growth and sustainable development will be adequately reflected in the post-2015 development agenda.

We commit to undertaking concrete actions to respond to challenges of migration and mobility at the appropriate level in a spirit of partnership, shared responsibility and cooperation.

To this end, we agree on an Action Plan for 2014-2017 focusing on the following key areas:

- We undertake to upscale our efforts in combating trafficking in human beings, notably by strengthening partnership and cooperation on prevention, protection and prosecution as well as fighting against those taking advantage of all forms of exploitation, both in Europe and in Africa;



- We commit to fight irregular migration, by promoting comprehensive and efficient cooperation to avoid the dramatic consequences of irregular migration and to safeguard the lives of migrants, addressing all its relevant aspects, including prevention, strengthened migration and border management, the fight against smuggling of migrants, return and readmission (including voluntary return) as well as addressing the root causes of irregular migration;
- We commit to strengthen the nexus between migration and development, including by stepping up efforts to significantly reduce the costs of remittances, consolidate the African Institute for Remittances and strengthen policy frameworks for enhancing Diaspora engagement;
- We agree to advance legal migration and mobility, by better organising legal migration and fostering well-managed mobility between and within the continents;
- We agree to strengthen international protection, including through the implementation of international and regional instruments for the protection of refugees, asylum seekers and internally displaced persons.

We recall that the respect of the fundamental human rights of migrants, irrespective of their legal status, constitutes a cross-cutting issue of our cooperation. 🌍



EU-Africa Summit Sommet UE-Afrique

Bruxelles 2014 Brussels

Fourth EU-Africa Summit

2-3 APRIL 2014, BRUSSELS

ROADMAP 2014-2017

Introduction

1. The Heads of State and Government of the European Union (EU) and Africa, the President of the European Council, the President of the European Commission, the President of the African Union (AU) and the Chairperson of the African Union Commission (AUC), meeting in Brussels on 2-3 April 2014, on the theme of "Investing in People, Prosperity and Peace", committed to enhance Africa-EU cooperation for the years to come. They confirmed that the Joint Africa-EU Strategy (JAES), adopted at the Lisbon summit in 2007, setting out the vision, values and principles to which we are committed, remains the strategic political reference for EU-Africa relations. The summit praised the work done and the progress made in the implementation of the two preceding action plans.
2. The 4th EU-Africa summit agreed that the implementation of the Joint Strategy should be further improved in the light of experience and developments in Africa and Europe as well as globally. Our cooperation should be guided by a results-oriented approach. The summit therefore adopted the present document to frame continent-to-continent cooperation for the period 2014-2017. This document sets out key priorities and areas for joint actions at inter-regional, continental or global level in areas where Africa and the EU have mutual interests. It provides the necessary orientations for their implementation. These actions will be the object, for those that require it, of more detailed implementation plans.
3. The summit decided on actions in priority areas where cooperation between the two continents is essential, has high potential in the framework of the Joint Strategy and where substantial added-value can be expected. These actions will complement other initiatives undertaken as part of the cooperation between the EU and Africa at country and regional levels.
4. It was agreed to pursue and deepen political dialogue and cooperation. Summits, ministerial meetings, College-to-College meetings between the two Commissions and Peace and Security Council-to-Political and Security Committee meetings will continue to take place within the framework agreed for the Africa-EU Partnership at the Cairo Summit. This EU-Africa dialogue will be complemented by regular high level contacts between European and African leaders on common challenges and crisis situations.
5. In addition, given that some of the technical expert structures have not always been efficient, Africa and the EU shall jointly identify, where needed, the working mechanisms and structures required to implement the agreed actions and reach the expected results. The implementation of the actions included in this roadmap will be assessed in the framework of joint annual forums which will replace the current Joint Task Force and will gather together all the actors of the Partnership. It was agreed to increase synergies between the political dialogue and cooperation and to promote contributions from the private sector and civil society.

Joint Priorities

6. For the 2014-2017 period, the summit agreed that the implementation of the Joint Strategy shall focus on the following priority areas:
 1. Peace and Security
 2. Democracy, Good Governance and Human Rights
 3. Human development
 4. Sustainable and inclusive development and growth and continental integration
 5. Global and emerging issues
7. For each of these objectives, a number of actions have been identified at inter-regional, continental or global levels which are expected to have a real impact on the people of both continents. It is important to note that these actions come in addition to cooperation at country and regional levels.

Priority area 1: Peace and Security

8. *Strategic objective:* To ensure a peaceful, safe, secure environment, contributing to human security and reducing fragility, foster political stability and effective governance, and to enable sustainable and inclusive growth.

Key areas for cooperation:

9. We will enhance our political dialogue to discuss international issues, reach common positions and implement common approaches on challenges to peace and security in Africa, including addressing the issue of peace, justice and reconciliation. Such cooperation will take place notably through enhanced coordination between the AU Peace and Security



Council and the EU Political and Security Committee. We confirm our rejection of, and reiterate our commitment to, fight impunity at the national and international level. We undertake to enhance political dialogue on international criminal justice, including the issue of universal jurisdiction, in the agreed fora between the two parties.

10. We will jointly pursue the identification, where needed, of the working mechanisms and structures required to implement the agreed actions and reach the expected results.
11. We will strengthen the operationalisation of the African Peace and Security Architecture (APSA), in particular by supporting the African Standby Force and its capacity to be deployed, supported and managed in a sustainable way. We will support training and capacity building of African forces, including police and civilian components. In addition, we will support the African institutional capacity building, for instance in the area of crisis prevention, peace building and post-conflict reconstruction including by providing advice, training and equipment.
12. We will strengthen coordination between the EU and Africa as well as with regional organisations in particular the Regional Economic Communities (RECs), in the planning and conduct of conflict prevention and peace support activities in cooperation, as appropriate, with the United Nations (UN).

13. We will increase cooperation in addressing the root causes of conflict and cross-cutting issues of common concern such as terrorism and related threats and transnational organised crime including trafficking in human beings drugs, arms trafficking and illegal trade in wildlife.

14. We will also pay special attention to the issue of maritime security including counter-piracy efforts, the fight against Illegal, Unregulated and Unreported fishing within the framework of the African Integrated Maritime Strategy 2050 and the EU Integrated Maritime Policy, and against toxic waste dumping.

15. We will strengthen the human rights dimension of our cooperation on peace and security, as much in conflict prevention efforts, crisis management and post-conflict processes, as in our efforts to improve good governance and to support Security Sector Reform. We will focus on ending sexual violence and on protecting civilians, in particular women and children who are the most affected by armed conflicts. We will ensure the full and effective participation and representation of women in peace and security processes.

16. In addition to current EU support to African-led Peace Support Operations and to the APSA through the African Peace Facility, we will strengthen mobilisation of African and international resources in order to improve the predictability and financial sustainability of African peace and security activities, notably African-led Peace Support

Operations and management capacities of RECs and the AU.

Priority area 2: Democracy, Good Governance and Human Rights

This includes economic, social and cultural rights and civil and political rights

17. *Strategic Objective:* To ensure a transparent, democratic and accountable environment in the respect of Human Rights and the Rule of Law, contributing to reducing fragility, fostering political stability and effective governance, and enabling sustainable and inclusive development and growth.

Key areas for cooperation:

18. The promotion of democratic governance remains at the core of our partnership. We will enhance our cooperation on democratic governance issues on both continents such as the fight against corruption and money laundering, strengthening the role of public sector institutions, including accountability and transparency, the rule of law and the governance of natural resources, including measures to curb their illegal exploitation.
19. We will also support the monitoring of elections by the African Union in the countries concerned and will ensure coordination with the electoral observation missions of the EU.
20. We will defend human rights in Africa and Europe and we will work together to make the African Human Rights Year in 2016 a success. We are united in the

fight against impunity at national and international level and in the protection of human rights on both continents. We shall hold regular consultations on civil, political rights, economic, social and cultural rights. We shall pay particular attention to gender equality, the rights of the most vulnerable groups, including people with disabilities, the elderly and refugees, as well as to women, youth and children rights. A key framework for such dialogue will be the EU-AU Human Rights Dialogue.

21. We shall enhance dialogue between human rights institutions from both continents, including National Human Rights Institutions.
22. We shall increase our coordination and cooperation at the UN Human Rights Council and other international fora. We will ensure the full and active participation of civil society in our dialogue and our cooperation.
23. We will support the full operationalisation of the African Governance Architecture and the work achieved by its various organs including their necessary coordination. We will increase support for the efforts of concerned African countries to promote the ratification and the implementation of relevant treaties, including the African Charter on Democracy, Elections and Governance.

Culture

24. We will exchange experiences on the return of illegally exported or acquired goods to their countries of origin and encourage setting up relevant mechanisms for sharing best practices in particular on addressing archives issues.
25. We will work together towards an inclusive approach to culture as enabler and facilitator for development.
26. We will aim at strengthening cooperation to fight against illicit trafficking of cultural goods and to protect cultural goods, including national archives. We shall cooperate with relevant international organisations (in particular UNESCO, Interpol, World Customs Organisation, International Council of Museums and UN Office on Drugs and Crime) to ensure the coherence of these actions.
27. We will promote enhancement of tangible and intangible cultural heritage, as well as the diversity of cultural expressions by promoting cultural diversity, intercultural dialogue and international cooperation in the cultural field, in line with the UNESCO 2005 Convention on the Protection and Promotion of the Diversity of Cultural Expressions.
28. We will cooperate to put in place digital inventories and archiving methods and to protect national archives. We are engaged to strengthen the safeguarding of World Heritage sites.

Priority area 3: Human development

29. *Strategic Objective:* Promote human capital development and knowledge and skills based societies and economies, amongst others by strengthening the links between education, training, science and innovation, and better manage mobility of people. Our cooperation in the framework of the JAES will complement our actions at national level to improve access to more and better jobs and social protection, as well as access for all to quality basic education, sanitation and health care, including Sexual and Reproductive Health.

Key areas for cooperation:

Science, technology and innovation

30. Investments in science, technology and innovation (STI) are vital to promote growth and employment, improve competitiveness and identify and address pressing global societal challenges such as climate change, affordable renewable energy and energy efficiency, infectious diseases or food and nutrition security. EU-Africa cooperation on STI is cross-cutting in nature, contributing to the attainment of all other socio-economic development objectives. We will work towards reinforcing cooperation between research communities and the creation of joint academic research programmes, with a special focus on innovation and the productive sector including research infrastructures.
31. In addition, we will develop a long-term, jointly funded and managed research and innovation partnership, in particular in the



areas of food and nutrition security and sustainable agriculture. We will take an integrated approach recognising the important cross-cutting nature of innovation/entrepreneurship, research infrastructures and technical skills development in Africa and Europe.

32. To this end, the EU-Africa High Level Policy Dialogue (HLPD) on science, technology and innovation will be the key platform in the JAES for priority-setting and implementation design. A HLPD expert working group will be set up that will be tasked with developing a detailed roadmap defining the scope and outlining the different steps to be taken towards this new partnership. Financing will come from the European Research and Innovation Programme, Horizon 2020, and other contributions from EU and African stakeholders.

Higher Education

33. Higher education plays a crucial role for economic and social development in catalysing sustainable development by producing high quality human resources and in disseminating the results of scientific and technical research. In addition to specific, traditional capacity building actions, mobility in itself has a strong potential to improve the quality of higher education, by accelerating the use of transparency and recognition tools, and by helping institutions develop better services to send and receive foreign students and researchers.
34. The Erasmus+ programme and Marie Skłodowska-Curie Actions will allow for top-quality mobility of

African and European students, scholars, researchers and staff through a balanced mix of actions centred on individuals, institutions and higher education systems. The Nyerere mobility programme will provide scholarships to around 500 students to undertake postgraduate studies and will allow for the mobility of 70 academic and administrative staff within Africa by 2017. This will promote student retention whilst increasing the competitiveness and attractiveness of the institutions themselves.

35. We will support the development of centres of excellence in Africa, particularly through the Pan-African University. We will expand the African Higher Education Harmonisation and Tuning pilot initiative with the aim to enhance the relevance and quality of curriculum, to introduce outcome-based teaching and learning, to increase from 60 to 120 the number of participating universities across the African continent and to increase the number of disciplines and levels addressed. In addition, boosting the African Union Higher Education Harmonization and Quality Assurance initiatives will promote quality practices in universities and will support the implementation of the continental framework for quality assurance and accreditation, an increase of aligned partnerships and the internationalisation of higher education. We will consult and exchange to foster education, vocational training and entrepreneurship among women and youth.

Mobility and migration and employment

36. The Brussels summit adopted a Joint Declaration on Migration and Mobility and agreed to implement an Action Plan for the period 2014-2017. In line with this declaration, we will foster synergies between migration and development, including by reducing the costs of remittances, enhancing the role and engagement of the diaspora and consolidating the African Institute for Remittances. We will better organise intra and inter-regional labour mobility and that of business persons. We will enhance our cooperation to address trafficking in human beings, notably by strengthening partnership and cooperation on prevention, protection and prosecution. We will also cooperate on irregular migration, addressing all its relevant aspects, including strengthened migration management, return and readmission as well as the promotion of alternatives to irregular migration. Finally, we will cooperate together in the field of international protection and asylum, and will work together towards promoting respect of the human rights of migrants.
37. Our cooperation will be underpinned by a Migration and Mobility Dialogue steered by a core group of European and African countries and organisations meeting on a regular basis.

Priority area 4: Sustainable and inclusive development and growth and continental integration

38. *Strategic objectives:* Stimulate economic growth that reduces poverty, create decent jobs and mobilise the entrepreneurial potential of people, in particular the youth and women, in a sustainable manner; support development of private sector and SMEs; support the continental integration process, notably through accelerated infrastructure development, energy, industrialization and investment.

Key areas for cooperation:

Private investment, infrastructure and continental integration

39. We will promote continental integration and trade as well as the engagement of the private sector as a key partner in development. This will include strengthening the capacity of stakeholders to develop public-private partnerships. To fast-track the establishment of a Continental Free Trade Area in Africa, the EU offers to draw on its experience of building the Single Market to provide capacity support to this initiative. We will strengthen our cooperation to support initiatives such as Boosting Intra-African Trade and the establishment of the Continental Free Trade Area. We are committed to dialogue on regional and continental economic integration policies. We will work together to foster trade liberalisation and facilitation in a fair manner. The EU will provide support to African countries in the World Trade Organisation (WTO) accession process as well as the implementation of the WTO

trade facilitation agreement. This will include the harmonisation of appropriate policies, reducing technical barriers to trade by building capacity to improve, certify and assure the quality and standards of goods.

40. We will continue working on outstanding Economic Partnership Agreements (EPAs) with the aim to foster intra-African trade and Africa's regional integration efforts and the planned Continental Free Trade Area. In this regard, both parties should continue negotiations on EPAs by exploiting all possibilities to reach a satisfactory conclusion of development-oriented and WTO-compatible EPAs that promote African integration, economic transformation and industrialization and ensure the prosperity of nations to the benefit of both continents. It is important that Africa and Europe develop globally competitive industries that can succeed in today's global markets and contribute to sustainable development. EPAs should be structured to ensure that our trade expands and that it supports growth of intra-regional trade in Africa.

41. We will explore modalities to exchange information on the implementation of trade agreements and their implications for Africa's regional integration and industrial development agenda.

42. We will strengthen cooperation in the area of industrial development, through exchange of information and experiences on our respective policy frameworks such as the

Europe 2020 Strategy flagship initiatives, an industrial policy for the globalisation era and the Strategy for Accelerated Industrial development (AIDA). Recognizing that faster industrialisation is essential for the African countries, we will support the transformation of raw material at the source in order to enable them to reach a middle income status. We shall also work toward prudent and transparent management of respective natural resources in the interest of our populations, in particular in conflict-affected areas in line with principles of good governance. In order to complement the African policies in the above fields, the EU recalls its approach to responsible mineral sourcing and proposes a dialogue on these issues. We will endeavour to cooperate in such fields as geological surveys, mineral resources governance, investments, infrastructures, skills development and waste management.

43. We will engage to develop an open, transparent and predictable investment climate, including through improved legal frameworks, to promote private sector-led trade and responsible investment. We will support small, micro and medium-sized enterprises, which play a strategic role in wealth and job creation in both economies, and foster their competitiveness and internationalisation as well as encourage technology transfer. The EU will put these objectives at the forefront of the EU's support to private sector development and



its engagement with the European and African private sectors for development. The EU-Africa Business Forum will remain a privileged platform for exchanges among private companies and with the public sector. Other important stakeholders will be the EU-Africa economic and social actors whose fora should be encouraged and supported.

44. Decisions to invest or develop new policies need to be based on reliable and comparable data. We will enhance cooperation between European and African Statistical Systems in producing quality statistical service.
45. We shall deepen our cooperation in international tax matters to broaden domestic revenue mobilisation and tackle illicit financial flows, through increased cooperation in line with the principles of transparency, exchange of information and fair tax competition.
46. Strategic priorities for cooperation in the fields of energy, transport, water and Information and Communication Technologies (ICT) have been developed by the Reference Group in Infrastructure through Sector Strategy Papers in coherence with the Programme for Infrastructure Development in Africa (PIDA), the EU Development Policy and other guiding policy frameworks such as the UN Sustainable Energy for All Initiative. Strategic investments in these sectors applying innovative financing approaches will be coupled with support to regulatory reforms. Cross-sectoral

coordination will be ensured through the Reference Group on Infrastructures.

47. In the field of transport, we will strive for the reduction of transport costs and boosting of intra-African trade by bringing regional transport corridors to an adequate level of service, which is sustainable, safe and reliable. More attention will be given to the economic, social and environmental dimensions of transport. We will provide sustainable and adequate financial and human resources for the deployment of satellite navigation infrastructure based on European Geostationary Navigation Overlay Service (EGNOS) and establish governance and financing schemes for the capital and operational expenditures of EGNOS in Africa for the countries concerned. Multimodal inter-connections must be the tangible link that unites our two continents and must reflect the privileged relationship between Africa and the EU.
48. We will progress towards the 2020 targets of the Africa-EU Energy Partnership on Energy access, Energy Security, Renewable Energy and Energy Efficiency, with a strong focus on private sector and on interconnections, including between the two continents.
49. Actions in the water sector shall be geared to ensuring sustainable and efficient management of water resources, contributing to growth, peace and security, through institutional strengthening and preparation for investment in multi-purpose water infrastructure. We

will ensure better management of water resources for greater access to drinking water and sanitation and strengthen the water-energy-food nexus.

50. In the field of ICT, actions will aim at establishing favorable conditions and enabling environments for ICT in the service of citizens, public authorities and businesses, especially SMEs. This objective will be met through the implementation of a three-pronged ICT for Development Strategy "Connecting Africa" aimed at: a) the harmonisation and alignment of the appropriate aspects of e-communications policies and regulatory frameworks between Africa and the EU, including cyber-security. An important target in this process will be the transition from analogue to digital broadcasting in Africa and the regulation of the resulting Digital Dividend; b) the interconnection of Research and Education Networks through e-infrastructures; and c) the enhancement of ICT capacities for all, particularly in order to improve access to internet and an open and inclusive governance, in line with the Tunis Agenda for the Information Society.

Agriculture, food security and food safety

51. Our work on agriculture, food security and safety will be implemented within the context of the Comprehensive Africa Agriculture Development Programme (CAADP) framework. 2014 is the African Year of Agriculture and Food Security and the international year of family

farming. This issue features highly in the 2014-2020 EU assistance framework. Not only does agriculture feed people, it also creates sustainable and inclusive growth and jobs. We will endeavour to make our policies converge around a limited number of critical policy indicators to promote a sustainable development of agriculture. We will transform and develop rural areas, forestry and agriculture to create perspectives, jobs and income in particular for rural youth and women. We will address the substantial challenges facing African agriculture in a way that conserves the future productivity of natural resources. Our cooperation in this field will particularly take place within i) the contact group established between the two Commissions and ii) the CAADP partnership.

52. We will develop effective joint approaches to nutrition targets as major components of resilience, by strengthening information systems and analytical tools that support the national policy decision making process (Nutrition Integrated Phase Classification, resilience index, etc.). Regional entities and initiatives, such as the Global Alliance for Resilience Initiative (AGIR), will constitute a privileged framework to promote innovative solutions such as regional emergency food reserves or agriculture risk management.
53. We will promote nutrition sensitive agriculture to contribute to internationally agreed targets to reduce the incidence of stunting. We will increase access to, and

year-round availability of, high-nutrient content food, strengthen the capacity of women to provide for the food security, health, and nutrition of their families, as well as improve nutritional knowledge to enhance diet diversity. To monitor progress, explicit nutrition objectives and indicators are incorporated into agricultural project and policy design.

54. We will continue to collaborate on the implementation of the 2009 AU Declaration on Land, using the Framework and Guidelines on Land Policy in Africa (F&G) in line with the Voluntary Guidelines on the responsible Governance of Tenure of land, fisheries and forest (VGGT). Support will be provided to the AU Land Policy Initiative in order to promote land governance frameworks that contribute to improved efficiency, equity and environmental stewardship.
55. We will develop value-adding activities and agribusiness by increasing income opportunities for small holders, especially women, by creating jobs along the agricultural value chains in an inclusive and sustainable manner. We will promote responsible agricultural investment that is crucial for poverty reduction and food security. We therefore encourage the ongoing process preparing principles for responsible agricultural investment in the framework of the Committee on World Food Security. We will support the establishment of new, and expansion of existing, value adding chains for marketing of produce. We will pursue an enhanced cooperation among

EU and Africa private sectors and farmers' organisations exploring innovative and inclusive partnerships.

56. We will foster an increase of fair, intra-regional, inter-regional and global trade in agricultural products. We will work for the functioning of transparent and open markets for agricultural products, and build the capacity to serve the respective markets in complying with safety and quality standards, sustainability certification, improving market information systems and value chain governance, and implementing trade facilitation measures to increase cross-border trade. We will strengthen African plant and animal health management systems and compliance with international standards, including by paving the way for the design of an AU-Food safety Management Coordination Mechanism and a Rapid Alert System for Food and Feed.
57. We will support the implementation of the African Policy Framework for Fisheries and Reform Strategy to unlock the full potential of marine living resources and aquaculture for food security, livelihoods and wealth creation.
58. We will enhance our research on food and nutrition security and sustainable agriculture. We will particularly support the implementation of the medium term operational plans of African regional research and extension organisations and harness the expertise of global agricultural research initiatives to contribute to



African research priorities in line with CAADP, the Science Agenda for African Agriculture and the African Agriculture Technology Platform.

Priority area 5: Global and emerging issues

59. Strategic objectives: achieve common positions in global fora and international negotiations and jointly address global challenges.

Key areas for cooperation:

Climate change and environment

60. We acknowledge that we share converging views on climate change, environment and natural resource management issues. We will enhance our strategic dialogue on these issues to improve our understanding of the challenges facing Africa, the EU and the global community, and promote joint positions in global negotiations processes.
61. We will jointly undertake efforts to raise pre-2020 greenhouse-gas mitigation ambition and to engage constructively in the negotiation and effective implementation of a new binding global climate change Agreement under the UN Framework Convention on Climate Change and guided by its principles, which will apply to all Parties and must enter into force by 2020 at the latest. In order to ensure that this new agreement applicable to all Parties will be useful, ambitious, fair, balanced, and equitable, we will in particular prepare nationally determined contributions well ahead of the Paris Conference, by the first quarter of 2015, by those Parties ready to do so in accordance with the agreement reached in Conference of Parties19/CMP process.
62. We welcome the statement of African and EU ministers on climate change agreed at the conclusion of their meeting in Brussels on the 1 April 2014.
63. Our dialogue will build on existing processes, such as the Conference of African Heads of States on Climate Change (CAHOSCC) and the African Ministerial Conference on Environment (AMCEN). Joint meetings shall be organised, as needed and coordination will be ensured with related sectors such as agriculture and infrastructures.
64. We will ensure the establishment of a coherent framework for the development of Earth Observation activities in Africa so that space strategically contributes to Africa's socio-economic development. Our cooperation will be in line with the priorities of the Africa Space Policy and Strategy and AfriGEOSS, the African segment of the Group on Earth Observation (GEO), in order to deliver services in priority domains for Africa such as food security and health. As part of Africa's contribution to GEO, we will in particular strengthen African capacity to monitor environment and security in Africa using Earth Observation techniques through the implementation of the Global Monitoring for Environment and Security (GMES) and Africa Action Plan and, more specifically, its three priority thematic chapters: marine and coastal areas, water resources and natural resources management.
65. The Monitoring of Environment and Security in Africa (MESA) programme, building on African Monitoring of the Environment for Sustainable Development (AMESD) achievement, will also be an important contribution to these objectives. Recognising the importance of the safety, security and sustainability of outer space activities, we shall continue our dialogue in view of achieving an agreement on an International Code of Conduct for Outer Space Activities. The implementation of other Space policy-related projects will be facilitated by the AU-EU Space Troika.
66. Sustainable land management and the fight against desertification are crucial to support sustainable development. They also contribute to global climate and biodiversity objectives as well as food security. We will continue our engagement in strengthening resilience in Africa, including through programmes such as the Great Green Wall for the Sahara and the Sahel Initiative, the TerrAfrica platform and the EU Global Climate Change Alliance initiative (GCCA), targeting the most vulnerable countries to climate change. Furthermore, we will continue to support the Africa Regional Strategy for Disaster Risk Reduction and to pursue the goals of an African comprehensive disaster resilience framework beyond 2015.

67. We will cooperate to address the global biodiversity crisis and will work on the preservation and the restoration of healthy, resilient ecosystems within and outside protected areas, considering them as a critical natural asset to ensure sustainable livelihood for the people and development of the region. We will also cooperate to integrate biodiversity in national policies, plans and budget. We commit in particular to protect African wildlife by preventing and combatting poaching and trafficking, including through the Wildlife Crisis Window of the EU Biodiversity for life initiative. We will also stimulate new nature-based business models involving local communities, such as markets for green products and eco-tourism and contribute to implementing the Nagoya Protocol on Access and Benefit Sharing (ABS). We will cooperate to implement Reducing Emissions from Deforestation and Forest Degradation plus (REDD+) as a central measure to preserve forests and combat climate change. We commit to combating illegal logging (e.g. through the EU Forest Law Enforcement Governance and Trade initiative) as a precondition to sustainable management of forests.

68. Following Rio+20, Africa and the EU will promote the transformation of their economies to become increasingly inclusive and green. Initiatives will support a low-carbon and resource-efficient growth through sustainable consumption and production patterns, green innovation and business development and

sound management of energy, chemicals and waste as well as development and extended use of environmentally friendly and energy efficient technologies.

Post-2015 Development Agenda

69. Africa and the EU have a strong common interest in working together to secure an ambitious and action-oriented outcome to the post-2015 process, and to ensure that it will be consequently implemented, and in this endeavour will continuously and closely cooperate.

70. To this end we commit to working in partnership during the upcoming negotiations with a view to reaching consensus in 2015. We will consult between groups from our two continents in New York. This will allow for both sides to know their respective priorities, resolve differences of views openly and constructively, identify common interests and discuss developments in global discussions. We will also cooperate to ensure that the implementation of the post-2015 framework and of the 2063 Africa vision, including African development goals, will be complementary, consistent and mutually supportive.

Proliferation of small arms and light weapons and weapons of mass destruction and transfers of conventional arms

71. We will deepen our political dialogue aiming at common positions and proposals in international fora on disarmament and non-proliferation of weapons of mass destruction.

72. We will undertake joint initiatives to strengthen capacities to mitigate against risks linked to chemical, biological, radiological and nuclear (CBRN) materials. We will endeavour to promote the ratification of the Treaty of Pelindaba.

73. Finally, we will undertake joint initiatives to promote and encourage the ratification and implementation of relevant instruments, such as the Anti-personnel Mine Ban Convention, the Convention on Cluster Munitions, the Arms Trade Treaty and of programme such as the UN Programme of Action on Small Arms and Light Weapons (SALW).

74. We remain committed to combat the spread of small arms and light weapons.

Reform of the international governance system

75. We recognize the need to pursue the reform of the main UN bodies with a view to making the overall UN system more effective and transparent and which should be reflective of the substantial changes the international community and UN membership have undergone. In this regard, we will undertake political consultations. 



EU-Africa Summit Sommet UE-Afrique

Bruxelles **2014** Brussels

Fifth EU-Africa Business Forum

Joint Business Declaration to the Heads of State and Government of the European Union and African Union Member States at the 4th EU-Africa Summit

Brussels, 1 April 2014

On 31 March and 1 April 2014, the fifth EU-Africa Business Forum took place in Brussels, Belgium. Organised in the margins of the fourth EU-Africa Summit, the Business Forum brought together representatives from the business and political communities of the EU and Africa to discuss challenges and propose solutions for “engaging the private sector in sustainable and inclusive growth”.

Africa and Europe have a common future and both can bring mutual benefits to the partnership:

- It is important to take a long-term approach as partners
- Both the EU and Africa need to work on doing business on an equal footing.

The Business Forum identified a wide range of areas in which enhanced cooperation between stakeholders will significantly contribute to better leveraging the participation of the private sector in development. A complete set of the Forum's conclusions and recommendations will be published in the forthcoming 5th EU-Africa Business Forum Report, while this declaration sets out a number of the key messages and recommendations:

1. Creating a business-enabling environment

Stability and predictability are the two main pre-requisites to attract long-term, sustainable investment which will contribute to increasing growth and employment and help alleviate poverty. Strong political commitment to the rule of law is therefore crucial to develop a clear legal framework that will also help to address the risks that investors encounter. In parallel, the engagement of the EU and African governments in multilateral discussions, for instance in the UN and the World Bank, will also significantly contribute to building a harmonised international framework for better governance and transparency. Furthermore, Africa is experiencing a demographic dividend which, if properly harnessed, this young population could contribute to the development of the two continents.

2. Offering financing solutions

It is important that companies, irrespective of their size, are able to participate in development initiatives, as they can contribute to the success of a project in different – but complementary – ways. However, small and medium-sized companies (SMEs) realistically have limited access to finance for development. It is important that this problem is effectively addressed through the design of instruments tailored to the needs of SMEs in the EU and Africa. For the viability of these instruments, guarantees should be offered by public financing institutions, such as the European Investment Bank and the African Development Bank. Furthermore, besides infrastructure, blending facilities should also be expanded to initiatives in the renewable energy and agricultural sectors.

3. Promoting EU-Africa and intra-Africa trade

A much larger integrated African market would work for the benefit of both Africa and the EU, as it would help increase trade and investment, as well as improve transport and infrastructure.

4. The role of the private sector in tackling unemployment and social economic development

Unemployment is a major challenge for both Africa and the EU. Hence, there is the need to mainstream the role of the private sector in job creation, poverty alleviation and broader socio-economic development. This may be more specifically achieved under the post-2015 development agenda.

5. Supporting Public-Private Partnerships

Public-Private Partnerships should be further promoted as they represent significant opportunities for sustainable and inclusive investment in sectors that are key for the future of Africa, such as infrastructure, telecommunications, energy, and pharmaceuticals.

6. EU-Africa Business Forum Roundtable Recommendations

The Forum programme included a high-powered programme of 12 dedicated Roundtables tasked with discussing recommended actions concerning key issues or their relevance to promoting increased private sector involvement in development in Africa, and between African and European private sector actors.

Some of the key findings and recommendations of these Roundtables were as follows:

6.1 Regarding sustainable energy for all

1. Need to bring the African private sector into the sustainable energy development market and avoid the threat that the local private sector is excluded from sustainable energy development.

6.2 Regarding the supply of risk capital for new enterprises

1. Risk systems to rate and to build investor trust in Africa, such as Fiduciary systems, should be supported by IFIs on a technical and blended finance assistance basis.
2. Skills development IFI for Europe and Africa should set a ten year target to support the number of SMEs working with EU business to produce and become competitive low value manufacturers for both African and global markets.
3. The EU and African private sectors, in collaboration with IFIs, should develop and implement vocational training and apprenticeship programmes partnering European and African academic institutions.
4. Blended finance and programme related investments (PRI) should be supported as a partnership between European and African businesses to initiate supplier development partnership and programmes in order to build an entrepreneurial eco-system and fast track the development of an entrepreneurial class across Africa.
5. DFIs should support African project developers with venture capital and blended finance to redress the one-in-ten private sector participation in infrastructure (PPIC) - currently the lowest in the world (60% in Europe) - with the specific goal of increasing it to more than 40%..

6.3 Regarding inclusive models in agri-food chains

1. There is a real interest and need to unlock local financial sources, such as insurance funds and pension funds
2. Importance of making large agri-business understand the significance and long-term value of bringing smallholder agriculture actors into the value chain
3. Where big business and/or government is investing in large-scale agriculture projects, how to ensure appropriate transparency and policies are in place to avoid risks such as resource diversion and disenfranchisement of smallholders. Mechanisms/ solutions that can be put in place to address this challenge include better provision of data (e.g. electronic wallets for farmers to monitor distribution of subsidized fertilizer).

6.4 Regarding the creation of partnerships to bring e-schools to rural Africa

1. Exempt Eschools/Elearning Connectivity equipment from licensing and customs fees
2. Define and fund a pan-African programme in the next seven years to ease and accelerate e-schools in all of Africa
3. Create a favourable policy environment that encourages innovation and investment, including the development of policies and regulations that promote access to the internet, and help businesses and enterprises develop relevant services that are sustainable and scalable over the longer term.

6.5 Regarding incubating sustainable energy enterprises (With a particular focus on distributed generation and off-grid market)

1. Provide capital and stimulate innovative financing of the sector: There is a significant funding gap for product and project development at the feasibility, proof of concept and seed funding stages – while there is a significant market opportunity and need for sustainable energy solutions, conventional funding sources do not have the risk appetite to fund early stage market development. Patient capital is therefore required to nurture long term success in the market, and this requires the provision of flexible funding to pro-actively incubate, adapt and demonstrate proof of concept and pilot projects including “first loss” tranches and guarantees for funding structures and provision of debt which will allow rapid scaling-up of the products and services most in demand from the market.
2. Provide additional technical and commercial assistance to develop, demonstrate and prove concepts. Such assistance, including incubation support and technical assistance, is important in addition to the provision of capital, as this service can ultimately help to de-risk early stage business and project development ahead of commercial investment.
3. Support collaboration and economies of scale in the market. Support and scale existing (successful) activities to further stimulate the market, working with and complementing other public investment activities and programmes.
4. Ensure local solutions to local opportunities are addressed and developed.
5. Direct efforts towards broader sustainability issues, not just electricity generation and supply - renewable



electricity generation and supply forms only part of the need and opportunity, while energy and utilities, i.e. gas, solid & liquid fuel, waste treatment, agriculture, water supply and treatment are all related opportunities and should be included.

6.6 Regarding ICT for agriculture

1. Focus must be on agricultural SMEs (advisory services and industry) to build capacity, through advisory and mentorship services, using proven European ICT technology and international certification standards to support food security, traceability, reduce costs, all based on environmental standards and to support a guarantee fund to unlock local financing support for agro/SMEs from local and international sources and work out PPP business models including RoI concepts.

6.7 Regarding infrastructure and construction

1. PPP is seen as an option to finance infrastructure in Africa under certain conditions such as economic viability, proper risk allocation and professional preparation.
2. EU and Africa partners agreed that "Design & Build" and "Design, Build & Operate" are complementary to traditional procurement methods for enhancing implementation efficiency, quality and value for money for large infrastructure project financing.

6.8 Regarding raw materials and governance

1. Environmental protection and local population consultation should always be part of all processes; a good policy framework is needed to attract investment; geological knowledge and information needs to be increased, including strengthening Geological Surveys capacity and geological cooperation; policies promoting skills development and business education in the sector should be developed; participation in the value addition chain locally should be ensured.
2. Public-private partnerships should be facilitated to ensure that resources are sustainably exploited. The two sectors (public and private) should partner one another and not be in conflict with each other, for instance in the area of infrastructure development.

6.9 Regarding promoting growth, innovation and access to healthcare and pharmaceuticals

1. AU-EU political commitment at the Summit to take immediate action in conjunction with the WHO to ban substandard medicines posing health risks:

- b.) by setting up rigorous product quality testing, pharmaco-vigilance systems and regional bio-equivalence centres;
- c.) through implementation of the African Medicines Regulatory Harmonization programme (AMRH) and establishing the African Medicines Regulatory Agency (AMA).

2. Immediate political commitment is needed from country health authorities to agree on necessary resources at national, regional or pan-African level.
3. All governments to criminalize counterfeiting of medicines, by e.g. implementing/enforcing national and regional legislation and signing the MEDICRIME Convention.
4. Increase EU-African collaboration on universal healthcare coverage alongside those countries that have mobilized resources in the context of the Abuja commitment to earmark 15% of the national budget for healthcare.
5. Create a Europe-Africa discussion forum for greater understanding of the three dimensions of HS: Building Blocks, Health Programs and Performance Drivers.
6. Develop sound national and regional investment policies and create an Infrastructure Investment Fund to boost local private sector participation in infrastructure delivery, and promote PPP in this area.
7. European Union support to the African Union to actively encourage the Business Plan of the Pharmaceutical Manufacturing Plan for Africa (PMPA BP), including financing and facilitating business links (e.g. joint ventures, technology transfers, voluntary licensing and patent pooling).
8. EU and African Union to support countries in developing reliable demand forecasting models for key drugs and vaccines that will drive economies of scale and determining the market size necessary for local production..

6.10 Regarding Social Entrepreneurship

1. Develop structural collaboration between EU and African social enterprises, through a number of measures which could also include: instituting a Working Group on the subject (involving social enterprises and their networks on both continents), developing pan-continental collaboration networks of incubators/ excellence centres to exchange experience, on-line platforms to share data and knowledge.
2. Accelerate the creation of a social enterprise Incubator/Propeller Network across Europe and

Africa, and hold a competition to choose the first 25 Incubator/Propeller Initiatives to be embedded in secondary and tertiary institutions in the EU and Africa.

3. Create a 100 million euro fund that targets African small farmers for carbon sequestration awards by creating value chains that create sustainable ways of enhancing organic soil content.
4. Funding mechanisms to ensure start-up and up-scaling of social enterprises still need to be analysed and promoted, including: social impact investment, crowdfunding, diaspora involvement, etc.

6.11 Regarding Risk Management

The management of political, commercial and other risks are at the forefront of every PPP project: risks need to be allocated to those who are best able to manage them. In order to speed up the development of well-structured projects in infrastructure, the following actions are recommended:

1. Establish a platform for government, private sector and DFIs to exchange information, views and best practices on public-private partnerships and private sector investment in infrastructure, starting with energy.
2. Develop risk mitigation Instruments: e.g. to mitigate political risk, provision of local currency funding, more long-term funding, providing guarantees which also act as a catalyser.
3. Support and strengthen local African project developers, in association with European project developers.
4. Incentivise development finance to leverage more private sector financing as a pre-requisite for intervention through (blended) lending or grant financing.

6.12 Regarding use of space services

1. Promote cooperation on the development and use

of space technology for African sustainable socio-economic growth, through technology transfer, capacity building, and joint business initiatives; support the development of satellite navigation infrastructure (EGNOS) and Earth Observation Services (GMES and Africa), establishing the relevant governance and financing schemes

6.13 Promoting development of SMEs and SME success stories

1. Increasingly African companies want to capture a larger share in the value chain and are no longer content with just exporting commodities to selected markets. Moreover, there is a huge potential for agribusiness and the industrialisation of agriculture, not only for greater value retention by African companies but also to create new jobs.
2. For African businesses to grow and scale-up it is important to take a “shared value” approach where successful companies share their wealth and value with those who contribute to the creation of the wealth e.g. giving back to farming communities as it is they who enable agribusinesses to succeed.
3. Traditional development models are no longer relevant in the context of Africa. It is possible to leapfrog several stages of development, as some SME success stories testify.
4. Africa will need to prepare strategically to reap the demographic dividend. It will have the largest work force, particularly of young people, in the decades to come. There is a critical need for these young people to develop “marketable” skills to ensure that the skills supply matches the demand for such by the private sector.
5. Women’s economic empowerment can reap rich development dividends.

It is important to emphasise that these recommendations are just a selection of the key messages from the Forum Roundtables and the full set of conclusions and recommendations will be provided in the Forum Report

Conclusion

The EU-Africa Business Forum, organised in parallel to the EU-Africa Political Summit, provides an excellent opportunity for a constructive exchange of views between business and political leaders. The leading business organisations in the EU and in Africa agreed to further strengthen their bilateral relationship and look forward to constructive cooperation in the future.

Signatures

Markus J. Beyrer
Director General, BUSINESS EUROPE

Jacqueline Mugo
Secretary General, BUSINESS AFRICA

CSO Brussels Declaration on the JAES

25 OCTOBER 2013

1. We, representatives of African and European civil society organisations meeting at the Second Africa-EU Civil Society Forum in Brussels on 23-25 October 2013, resolve to take concrete actions to influence the reform of the Joint Africa-EU Strategy (JAES) and the implementation of its new Action Plan, which are expected to be adopted by the Africa-EU Summit in April 2014. As in Cairo (2010), we recognise the JAES and the Action plan as important instruments for fulfilling the long-term goal of building a new strategic partnership between Africa and the European Union based on shared history, strong political relationship, common values and close cooperation.
2. At this joint forum, we reviewed the implementation of the JAES and the Action Plan (2011-2013), deliberated on proposals from the EU and AU Commissions for the reform of the JAES thematic priorities, institutional mechanisms and funding instruments and evaluated past experiences and future opportunities for civil society in the framework of the JAES. Having also interacted with high-ranking EU and AU officials who opened and closed the forum, we concluded that the strengthening of civil society participation in the JAES was critical to transforming the partnership between Africa and the EU into a more people-centred and mutually beneficial multi-stakeholder relationship, not a government-to-government project. We observed with particular concern that the current reform proposals limit CSOs' participation in the JAES.
3. We deliberated in plenary and working group sessions, focusing on the six themes of 'migration; food security, climate change and agriculture; socio-economic inequalities; political participation, human rights and transparency; peace, security and governance; trade, regional integration and investments', with gender equality, youth and natural resources management as prominent cross-cutting themes receiving specific recommendations. We agreed that civil society in Africa and the EU should engage in the processes of reforming the JAES and contribute to the formulation of the action plan for the period 2014-2016 in order to influence the decisions and outcomes of the forthcoming Africa-EU Summit in April 2014.

4. Acknowledging the progress, challenges and opportunities of the JAES since 2007 we recommend the following actions for its reform and the revitalization of the Africa-EU partnership:

Structural reforms:

- Recognize the role of civil society organisations as independent actors and integral partners and provide appropriate support for their timely involvement at all levels of decision-making, implementation, monitoring and evaluation of the JAES;
- Introduce decision-making, implementing, monitoring and evaluation mechanisms for the partnership that include civil society, Member States and the related institutions;
- Adopt an outreach and communication strategy at the intercontinental and national levels
- Articulate clearly the linkage between the JAES and major intercontinental processes, such as the Post-2015 development agenda, in order to maintain the continuing relevance of the strategy;
- Set up inclusive working groups on the thematic priorities of the JAES in which representatives of EU-Africa CSOs will formally participate;
- Set up a permanent political forum where the EU and Africa will discuss priorities or themes and adopt joint positions that will be promoted within international fora;
- Allocate at least two seats for the CSOs at the Africa-EU Summit 2014;
- Establish a permanent secretariat with predictable funding to support and facilitate the engagement of civil society in the JAES;
- Establish an intercontinental women's forum that focuses on women's political, economic and social empowerment;

Thematic priorities:

Migration

- Decriminalize migration and promote the right to freedom of movement;
- Ratify and implement international legal instruments for the protection of migrants' fundamental rights and freedom of movement;

- Delink development aid from migration flow management and border control initiatives;

Democracy, human rights and governance

- Keep a specific democracy, human rights and governance focus in the partnership;
- Promote citizenship and human rights education in order to enhance political participation and civic engagement in political processes in both continents;
- Prioritize a comprehensive approach to initiatives pertaining to the rights of women and their roles at all levels of society, while eradicating violence and discrimination against women;
- Hasten ratification and implementation of mechanisms for human rights protection, including increasing access to justice, promoting legislative capacity and ensuring separation of powers;

Peace and security

- Enhance the partnership on peace and security with a special focus on peace-building efforts;
- Organize an annual conference on peace and security between Africa and Europe and support the national infrastructures for mediation and peace;
- Invest in conflict prevention and early-warning measures;
- Within an integrated response mechanism, ensure predictable funding for Africa-led peace support operations;

Trade, regional integration and investment

- Put the Economic Partnership Agreement (EPA) with Africa on the agenda of the EU-Africa Summit in April 2014 and negotiate development friendly agreements that align the geographical scope of EPAs to the Regional Economic Communities (RECs);
- Ensure that regional integration and infrastructure development is inclusive and gender-sensitive and use strategic social and environment assessments to plan sector and regional infrastructure projects;

- Strengthen regulatory and implementing capacity of African governments and enforce regulation to tackle illicit trade and financial flows;

- Strengthen the implementation of social and environmental standards on trade and investment for EU companies active in Africa;

- Build the capacity of Africa's SMEs and business community to meet the requirements of the EU market and promote socio-economic justice;

- Establish a civil society mechanism to monitor key areas of trade and investment between the EU and Africa to ensure mutual accountability;

- Socio-economic inequalities

- Make elimination of socio-economic inequalities a core priority of the JAES and ensure complementarity with other processes to reduce poverty;

- Ensure that voices and concerns of the poor and most marginalised groups are reflected in all formal spaces of the JAES through CSO participation;

- Recognise the centrality and importance of development and global education in both Europe and Africa;

- Adopt and implement joint Africa- EU positions related to social and economic inequalities and promote them in international fora;

- Address issues related to gender, maternal and child health, water and sanitation, disability and employment as key areas to reduce poverty;

Food security, land, climate change and agriculture

- Promote the achievement of policy coherence for development in particular by elimination of targets and subsidies that encourage land grab and food insecurity in Africa, such as biofuels production;

- Ensure the establishment and implementation of the highest standards in responsible governance and protection of land rights, and tenure, climate change, water, fisheries and forests;

- Support climate-friendly and sustainable agriculture as well as small-scale farming as a means to achieve food security within Africa and Europe;



- Ensure that Africa and European governments commit to further ambitious and concrete actions to reduce emissions globally and to commit to a legally binding treaty to fight climate change;
- Strengthen collaboration among all the partners on biodiversity and the protection of natural and genetic resources on both continents and support civil society actors in playing an advocacy role towards public authorities regarding exploitation of these resources.

Funding mechanisms:

- Ensure predictable funding for civil society participation in the JAES and in the implementation of the 2014-2016 Work Plan, including the thematic working groups meetings and other institutional activities;
 - Generate options for equitable Africa and EU funding of JAES structures, personnel and programmes;
 - Ensure a dedicated budget line in the Pan-African thematic programme to support the establishment of an intercontinental women's forum;
 - Provide predictable funding for a permanent secretariat to support and facilitate the work of civil society in the JAES.
5. We are confident that all the stakeholders in the JAES will reflect on these recommendations and take action, accordingly, in support of the reform of the JAES and the next Action Plan at the forthcoming Africa-EU Summit in April 2014. 🌍

CONCEPT NOTE

Dedicated Fridays of the Commission on Africa-EU Dialogue
First session:
Jointly organized by the African Union Commission and ECDPM
Making Africa-EU Relations future-proof
Build up to the Africa-EU Summit in April 2014

Background

Meeting in Lisbon in 2007, European and African leaders resolved to “build a new strategic political partnership for the future, overcoming the traditional donor-recipient relationship and building on common values and goals”. (see Lisbon Declaration, June 2008, pg 9-10) This commitment was made against the backdrop of the changing geopolitical, institutional and economic contexts in both Europe and Africa. In an attempt to breathe life into this ambition, they launched a new partnership framework, the Joint Africa-EU Strategy (JAES), which through successive Action Plans was implemented in the form of eight thematic partnerships.

Six years after Lisbon, the assessment of whether the seeds of a “new strategic political partnership” have been sown is mixed, at best. The EU has repeatedly argued for a stronger focus on “shared priorities” and results while for African actors, there is a sense that “more needs to be done” to forge a truly new partnership based on common principles and values. Furthermore, the new framework, as embodied in the JAES, continues to co-exist with other frameworks such as the Cotonou Partnership Agreement as well as thematic dialogue forums around specific issues, such as peace and security, making it difficult to introduce a new approach using traditional development cooperation tools.

The context of the partnership has evolved further since 2007 making it even more urgent for both partners to clearly define the added value of their partnership at a time when their needs and interests are shifting and their international relations are under pressure to support the domestic agendas of their multiple stakeholders. Looking forward, the question is how Africa-EU relations can be adjusted to ensure that they meet the future needs of African and European partners and make the partnership relevant for both continents.

The Africa-EU Summit in Spring 2014 provides an opportunity to look back at the successes and failures of attempts to launch a strategic partnership, to revisit some strategic questions on the nature of the partnership and to have an open debate on what both partners expect of one another in order to inform the focus of the relationship beyond 2014.

In the run up to the Africa-EU Summit, due to be held in Brussels in April 2014, the African Union Commission (AUC) jointly with the European Centre for Development Policy Management (ECDPM) organized a one-day meeting aimed at providing **an informal platform** for policymakers to exchange views on some of the strategic questions surrounding the future of the Africa-EU partnership in the run-up to the Africa-EU Summit, and beyond.

More specifically, the meeting focussed on the following questions:

1. What **progress, tangible and intangible**, has been achieved in Africa-EU relations since 2000 and especially since the Lisbon Summit in 2007?
2. How to smooth **dialogue** on contentious issues, such as the ICC?
3. What are the **new and ongoing challenges** in the partnership between the Africa and EU?
4. What should be the **key elements that would ensure the relevance of the partnership in future?**

An **information fair** alongside the meeting was also organized to inform the participants about the various activities surrounding Africa-EU relations.

Objectives

The following were the key objectives of the meeting:

- Provide an informal platform for dialogue between African and European actors on progress concerning the partnership, as well as to identify the enabling and obstructing factors affecting it
- Provide an informal platform for dialogue on the key priorities in

Africa-EU relations to contribute to a future-proof partnership

- Contribute to the debate on increasing the relevance of the Africa-EU partnership

Approach

This first in a series one-day meetings, used the platform provided by the Fridays of the Commission. It was intended to be informal and interactive in nature and focused on encouraging debate rather than presentations followed by question/answer sessions. The meeting included both African and European representatives and was conducted along the lines of the methodology below:



Participants

The meeting brought together relevant African and European participants.

African participants included:

- Representatives of different departments of the African Union Commission
- Representative of the Pan-African Parliament delegation on relations with the European Parliament
- Representative from the NPCA
- Representatives of Regional Economic Communities
- Representative of the African Development Bank
- African member states representatives
- Representative of the Economic Commission for Africa and other UN Agencies based in Addis Ababa, Ethiopia
- African researchers and academics involved in Africa-EU relations including members of the Europe-Africa Research Network that was established in Lisbon in 2007
- Students/academics from the University of Ethiopia and other higher education institutions based in Addis Ababa
- Civil society organizations based in Addis Ababa

European participants included:

- Representatives of DEVCO
- Representatives of EEAS
- Representative of the European Parliament delegation on relations with the PAP
- Representative of European member states based in Brussels or Addis

Proposed Outputs

The results are to be published in the “Bulletin of the Fridays of the Commission” and disseminated to a wide audience including AU member states, regional economic communities, universities and development partners among other recipients. 

Draft programme of the Special Session of the Fridays of the Commission to be held on 28 February 2014 at the AUC, Addis Ababa, Ethiopia

Time	Session
8h00-9h00	Registration
9h:00-9h30	Welcome remarks by H.E Dr Nkosazana Dlamini Zuma, Chairperson of the African Union Commission or Representative Statement by ECDPM
9h30-9h45	Coffee Break
9h45-11h05	Retrospective: EU-Africa relations in the last 10 years and the state of play of the JAES This session aims to enrich the debate on the state of play of the partnership since the Cairo Summit with more insights from within Africa. From here the key opportunities that the partnership presents as well as the challenges will be identified. <i>Key questions to be addressed include:</i> • How has the partnership evolved since the Cairo Summit of 2000 and especially after the Lisbon meeting since 2007? • What are the areas where the partnership has contributed positively? • What challenges continue to face the partnership? • Is the JAES a good framework to enhance the partnership? <i>Moderator:</i> Dr Rene Kouassi, <i>Director for Economic Affairs, AUC</i> <i>Speakers:</i> Mr Geert Laporte: <i>ECDPM</i> Dr Jack Mangala: <i>Associate Professor Brooks College of Interdisciplinary Studies & Dept. of Political Science</i> Dr Maurice Engueleguele: <i>Programme Coordinator - African Institute of Governance</i> Amb. Olusegun Akinsanya: <i>ISS</i> Amb Gary Quince, <i>Head of Delegation, EU DEL to the AU</i>
11h10 – 12h40	Improving political dialogue to address contentious issues: the case of the International Criminal Court (ICC) This session will reflect on improving political dialogue on contentious issues, taking the recent tension around the ICC as an example. The choice of the topic is informed by its importance to African participants, which is demonstrated notably by the fact that a special summit was organized to discuss the African position, but also due to its relevance to the EU-Africa partnership notably within the framework of the Cotonou Partnership Agreement's Article 11. <i>Key Questions to be addressed will include:</i> • What is the African and the European understanding regarding the ICC issue • How can we ensure there is a constructive dialogue on issues that are dealt with outside of the structures of the JAES but which may have an impact on political dialogue between Africa and Europe? • Are there any lessons to be drawn on how dialogue could be improved around issues such as the ICC on the basis of recent experience (beyond the Kenya case)? What could be the middle ground? <i>Moderator:</i> Dr Rene Kouassi, <i>Director for Economic Affairs, AUC</i> <i>Speakers</i> Prof Michelo Hansungule, <i>Professor of Human Rights Law and International Advisor, University of Pretoria (South Africa)</i> Dr Kerstin Carlson, <i>Department, Co-Chair, International and Comparative Politics</i> Prof OMOROU TOURE, <i>Professor of Law;</i> Prof Alioune Fall, <i>Professor of Law;</i> Dr Barney Afako, <i>Consultant on Peace and Security</i>

Date and venue

Friday, 28 February 2014 in Addis Ababa, Ethiopia

The event was co-financed by ECDPM, the African Union Commission and the JAES Support Mechanism.

For more information

For more information please feel free to contact Mwila Kamwela, African Union Commission (Kamwelam@africa-union.org) or Faten Aggad, Programme Manager Africa's Change Dynamics (fa@ecdpm.org), or Barbara Ambela, African Union Commission (Ambelab@africa-union.org)

Critical Analysis Of The Joint Africa-EU Strategy (JAES)

AFRICAN STAKEHOLDERS BRAINSTORMING MEETING

10-13 JUNE 2013,
ZANZIBAR, TANZANIA

I. INTRODUCTION

1. The Africa-EU Partnership was pitched as a partnership of equals between Africa and the European Union with the best intentions possible. Since the adoption of the Africa-EU Joint Strategy and the First Action Plan at the Lisbon Summit in December 2007, much effort has been exerted from the African and European sides to implement whatever has been agreed on, but results have been mixed.
2. Institutional arrangements and working methods were set up to bring together European and African stakeholders at the national, regional and continental level from governments, parliaments and civil society. With less than a year before the fourth Africa-EU Summit, scheduled for 02-03 April 2014 in Brussels, it is worthwhile asking:
 - Has the Joint Strategy really lived up to its ambitions?
 - What has been achieved to date?
 - What remains to be done?
 - What are the existing bottlenecks and how can they be addressed through new and innovative approaches?
 - How should the future JAES be formulated, and what should be the areas of focus?
3. In examining these questions, the institutional structures and follow-up mechanisms need to be thoroughly evaluated. Hence, this report examines the status quo of the partnership, evaluates the challenges and proposes some recommendations for further discussion within the framework of the current African brainstorming meeting.
4. It is expected that the brainstorming session will chart a way forward for an African common position with regard to the future of the JAES, namely: its architecture i.e. future priority areas of the 3rd JAES Action Plan, involvement of stakeholders, financing mechanisms as well as coordination and monitoring mechanisms. It is intended that the outcome of this meeting will guide discussions with the European Union during the joint brainstorming session on 20-21 June 2013 in Spain, as agreed at the 6th College to College Meeting, held on 25-26 April, 2013.

II. BRIEF REVIEW OF JAES ASSESSMENTS

5. So far, one assessment of the JAES was carried out in October 2009¹ to inform European and African stakeholders of progress. The conclusion of this preliminary assessment, in the form of this critical analysis paper, joins the 2009 one in pointing out that the JAES has not realised its full potential in placing Africa and EU relations at a strategic level. Indeed, the First and Second Action Plans have failed to meet expectations (particularly, although not exclusively, on the African side) as a result of numerous challenges and bottlenecks that are due, in part, to institutional shortcomings, lack of political will and full participation of member states in the processes; as well as the evolving socio-economic imperatives evolving within Africa and Europe, respectively.
6. A number of weaknesses in the implementation arrangements were identified i.e. in the JEGs, and immediate corrective measures are needed to improve implementation performance. The assessment also drew on a number of lessons such as: the implementation of operational activities relied almost entirely on the EU and this created an imbalance in the division of labour between the two sides; the identification of African key experts and national strategy contacts points, regular and informal contacts between co-chairs and commission staff are vital to the success of the partnership, and finally; personal involvement of the co-chair makes a difference, as well as the staff resources devoted to the JAES process.
7. A needs assessment of the JAES was also carried out and, essentially, some of the problems identified included: that few political decisions have been operationalized through clearly defined roadmaps indicating concrete, relevant and feasible pan-African activities, with clearly defined contributions by the various stakeholders; expected inputs by different actors remain undefined, with limited awareness among stakeholders, there are problems with the coordination and preparation of meetings, and a lack of dedicated and easily accessible funding.

III. OVERVIEW OF JAES KEY ISSUES

a. Institutional arrangements and follow up mechanisms

8. It will be recalled that at the Lisbon Summit, Africa and EU leaders declared their determination to give the new strategic partnership the necessary means and instruments that would enable the partnership to fulfil the Joint Strategy and Action Plan. To this end, a follow-up mechanism aimed at delivering on the goals of the partnership was created. Therefore, as enshrined in the 2007 Lisbon Treaty and 2010 Tripoli Declaration, institutional frameworks governing the partnership were set up as follows;



Diagram 1: JAES institutional Architecture

b. Involvement of stakeholders in the JAES Process

9. The Africa-EU partnership revolves around the principal of treating Africa as a single entity. In this regard, full participation and cooperation between African stakeholders is vital to the success of the partnership. Below are some of the stakeholders and how they contribute to the partnership.
10. **African Member States:** In the early stages of the JAES African countries were increasingly active in the implementation of the strategic partnership. In addition to their participation in the JEGs at technical level, member states have been directly involved, through the AU Permanent Representatives Committee (PRC) which continues to be fully engaged in the process by

working closely with and giving political guidance to the AU Commission in the implementation of the strategic partnership.

11. **The African chef de files countries** have also demonstrated their relevance in the Africa-EU dialogue. They were highly instrumental in preparing the half-yearly Africa-EU Ministerial Troika Meetings. The Follow-up Committee, a sub-committee of the AU-PRC, also continues to work with the AU Commission on various issues pertaining to the implementation of the strategic partnership.
12. **Regional Economic Communities (RECs):** Defined as the building blocks of Africa's continental integration process, RECs have a vital role to play in all African continental engagements, and the Africa-EU Strategic Partnership is no exception.
13. **Civil society and the private sector:** African civil society organisations have put in place a steering committee to follow the Africa-EU dialogue. Clusters have been set up to work on the eight thematic partnerships of the Second Action Plan. Leaders for each partnership were identified as well as networks of organisations to work on the thematic areas. The involvement of civil society actors in these clusters is based on interest and competence. The AUC was not in a position to properly consult the African private sector and involve it in the process through the existing channels and mechanisms, such as the African private sector forum. This is due to the fact that the private sector was not able to be fully part of the process and benefit from it. In the context of the JAES, a joint African and European private sector forum was therefore set up to create links and serve as a platform for the exchange of experience between the two sides. The last joint forum was held on the margins of the Tripoli Africa-EU Summit. However, to date, there has been no further follow up.
14. **AU organs:** AU organs² are important players in the JAES especially the Pan-African Parliament (PAP). The Parliament can play a key role in influencing the executive at national level in promoting the Africa-EU partnership agenda, as well as help in the propagation of the Joint Strategy as a key overseeing mechanism for its implementation. The Parliament should be actively involved in the brainstorming session in the preparation



of the next Joint Summit. In addition, representatives of the PAP have taken part in JEGs and Joint Task Force meetings.

c. African coordination mechanisms

15. The AU Commission plays an important role as the coordinating driving force behind the partnership. The AU has its own approach to the issue of internal coordination with various mechanisms set up to handle the management of Joint Strategy implementation. Given the wide range of areas covered by the Joint Strategy, effective coordination of different functional areas is vital to ensuring coherence and effective participation of all internal actors. In recognition of the importance of mainstreaming the Joint Strategy and effectively coordinating the activities of the different AUC Departments, the latter have identified departmental focal points in the framework of the implementation of the Joint Strategy. The Economic Affairs Department, the overall coordinating body for the Dialogue, supported by the office of the Chairperson, plays a crucial role in bringing synergy to the activities of the various Partnerships.
16. The Brussels office has been upgraded to the rank of an AU Permanent Mission to the EU and the ACP Group and, as such, its role is equally pertinent to the JAES process. The Mission has been trying, among other things, to monitor Africa-EU cooperation and the coordination of the group of African ambassadors in Brussels.
17. In addition, as part of the coordination process, one of the main tasks has been to ensure that the objective of the partnership is met, i.e. to enhance and elevate the Africa-EU political dialogue. Similarly, the Joint Strategy is intended to provide an overarching long-term framework for Africa-EU development cooperation through the implementation of successive short-term action plans, resulting in concrete and measurable outcomes in all areas of the partnership.

d. Monitoring and evaluation of the JAES and its action plan

18. Like any other development process, the ability to effectively measure and assess progress and the achievements of the partnership rests on an effective, results-based monitoring and evaluation system.

e. Financing of the JAES

19. In the framework of the JAES, Africa and the European Union committed to work closely to secure appropriate funding in order to implement the partnership. Both parties agreed that the financing of the Joint Africa-EU Strategy would be a joint responsibility that goes far beyond the European Commission when it was stated in the Lisbon Treaty (2007) that:
"Where possible, [Community] instruments will be complemented by further contribution by EU Members States. Moreover, whenever possible, African financial instruments and AU Member States shall contribute to this process and an involvement of African financial institutions such as the African Development Bank will be ensured as appropriate" (Lisbon treaty, 2007).
20. To date, a plethora of financial instruments have been used by the European Union to disburse funds in support of programmes and for the implementation of programmes in the framework of the Africa-EU dialogue.
21. Regarding the JAES, the EU supports the strategy *directly* through the African Peace Facility, which is an instrument for the Peace and Security Partnership, and *indirectly* through the EU 55 Million Support Programme and its successor the 30 Million Support Programme. Both instruments aim to strengthen the capacities of the AUC in implementing its institutional reform agenda and strategic plan, with particular attention for the implementation of its programme budget, which includes activities related to the JAES and the eight (8) thematic areas of the partnership.
22. Despite the various EU financial instruments that are available at national, regional and continental levels, there is currently no synergy or coherence between all these forms of support, thereby negatively impacting on the African Union's broader strategic objectives. The table below illustrates some instruments that have been or can be used as a means to finance JAES-related programmes and activities.

European Development Fund (9th and 10th EDF):

This is the most important instrument so far and some specific programmes that have been developed with this instrument include:

- the African Union Technical Cooperation Facility, the overall objective of which is to implement the pan-African component of the intra-ACP Strategy
- the research grant programme, support to infrastructure e.g. Port Moresby
- RIPs (RSP) and the NIPs (NSP) are also funded through this mechanism

Other EU instruments include:

Development Cooperation Instrument - covering notably South Africa (Trade, Development and Cooperation Agreement -TDCA)

- European Neighbourhood Policy Instrument (which has supported a project on deployment of renewable energy in the Mediterranean region)
- Instrument for Stability
- European Instrument for Democracy and Human Rights
- 7th Framework Programme for Research and Technological Development (FP7) (this is a programme mainly intended to support internal European policy, but which also has a substantive external policy component that has contributed to supporting the JAES).
- The European Investment Bank (finances several types of projects, notably through the Africa-EU Infrastructure Trust Fund, which supports the Africa-EU Infrastructure Partnership).

IV. JAES IMPLEMENTATION CHALLENGES

a. Institutional structure and follow up structures

23. Following the adoption of the EU's new Lisbon Treaty, some changes were made in the EU's external action set up. The EU no longer uses the Troika format. The Troika is now referred to as the Ministerial Political Dialogue Meeting. The EU now has just one person who represents the EU as a whole, a position currently held by Mrs Catherine Ashton, High Representative of the European Union for Foreign Affairs and Security Policy and head of the European External Action (EEAS), while on the African side, the Troika consists of the current AU Chair and the AUC Commissioners for Economic Affairs and Peace and Security. The last Ministerial Troika meeting took place in Lilongwe, Malawi, on 19 November 2010. The problem here is the asymmetry of entry points between the two sides.

24. Experience has also shown that the JEGs have struggled to become fully functional for a number of reasons, including poor attendance at meetings and a lack of political commitment. For example, ministries and administrations at national level appear not to have been fully mobilized yet. It should also be noted that a lot of financial resources have been spent on facilitating meetings of the JEGs – while the overall outcomes of the meetings have not translated into concrete results. Therefore, more work is needed to improve the functioning of the JEGs.

b. Involvement of relevant stakeholders

25. Involving RECs in the implementation of the Joint Strategy remains a major challenge. Following concerted efforts by the AU Commission to bring them on board, to date, few RECs are involved. To some extent, the difficulty of involving them can be explained by lack of ownership of the process, as is the case with many Member States. Given that activities to be implemented within the framework of the successive action plans are largely of a regional and continental nature, the active participation of RECs, particularly in the work of the JEGs would surely bring much more added value. Lessons perhaps could be learnt from the experience of the peace and security JEG, which has substantial REC participation.



26. With regard civil society, feeding the output of the work of the steering committee as inputs into the work of the JEGs and JTF remains a challenge. Equally, the involvement of the private sector is critical, particularly for the implementation of activities related to infrastructure, energy, trade and regional integration, among others. Yet private sector involvement still remains scant. With better targeting, the participation of the private sector could also offer an opportunity to leverage financial resources for the financing of the JAES.
27. Despite the key role of the PAP, there has been no follow-up on the implementation of the Action Plan or propagation of the JAES. The African and European Parliaments have joint sessions where they are supposed to discuss and evaluate the implementation of the JAES, something that has never been done.

c. Coordination mechanisms

28. Some of the challenges faced with regard to coordination include:
- Poor communication, information sharing and preparation of key documents.
 - Difficulty in the mobilisation of relevant stakeholders on the African front.
 - Coordination structure in the AUC is lean and insufficiently capacitated – it does not match up that of the EU, which is much more solid compared to the AUC structure.
 - Planning, organisation and coordination of JAES related meetings faced with logistical and administrative challenges, particularly in matching the agenda to participants' "level of expertise and decision-making authority", as well as sustaining adopted work programmes.
 - Administrative input of human resources is limited. The function needs more dedicated staff to manage the process.
29. In addition, given the difference in perception regarding the nature of the partnership, it has been difficult to coordinate the partnership. The African side regards it as more development cooperation orientated while the EU regards it more as a political partnership.

d. Monitoring and evaluation

30. Aside from the fact that the AUC, in particular, does not yet have a comprehensive monitoring and evaluation system in place to monitor the implementation of its programmes and development cooperation support, EU donor assistance to the AU Commission is also fragmented, i.e. due to the various financial instruments used to support JAES-related programmes (see above reference to financial instruments). The AUC does not have a comprehensive overview of all these instruments, thus making it difficult to effectively monitor and evaluate progress, assess resource overlaps, as well as foster synergy, coherence and links between the different instruments.
31. Furthermore, the action plans adopted by the partnerships do not have clearly defined measurable indicators to assist with even basic monitoring techniques. Some of the partnerships do not even have clear roadmaps.

V. FINANCING of the JAES

32. Despite the mention of the above financial instruments, the challenges of financing can be pitched at two levels:

Lack of adequate and dedicated funding for the JAES

33. First and foremost, the lack of adequate and dedicated financing played a large part in the low pace of implementation of the first Action Plan and would most probably impact on the implementation rate of the Second Action Plan. Moreover, the European Commission together with the relevant African actors have struggled to clearly mainstream the Strategy within the existing instruments existing at national and regional level as well as the European Development Fund (EDF). This creates a cacophony of EU financial instruments operating in the continent that fail to speak to one another and the broader continental frameworks and resource instruments. Furthermore, the available funding which can specifically be attributed to the JAES is insufficient in most cases not disbursed in a timely manner, and usually comes with conditionalities thereby crippling some of the agreed actions/programmes, not

***Pan-African Programme -
critical issues requiring further discussion***

Management of the programme: some critical issues still need to be further clarified, notably the scope and management of the programme - such as under which financial management regime it will be managed (AU, EU or independent) and the scope of its control measures and whether these will conform to both EU and AU financial rules, or only the former.

Timeframe for operationalization: there is a need to define carefully the process and timelines, taking into account the necessary consultation process on both sides to ensure the necessary ownership and political momentum. This should also be linked to the calendar for the establishment of the EU's post-2013 financial outlook.

Development of the Pan-African Programme: for the optimum implementation of the programme it is necessary for both the programme itself and its operational modalities to be developed jointly.

to mention contravening international commitments on aid effectiveness. Recognising the importance of having a dedicated envelope to address the financing of the JAES, a Pan African Programme has been considered by the EU, based on AU proposals to create an African Integration Facility modelled on the African peace Facility. However, the budget of this dedicated financial envelope has not yet been adopted by EU Member States and it is looking likely that the instrument will not be modelled on the Peace Facility and may suffer the same short-coming as previous financing mechanisms.

Lack of financial contribution from African Member States

34. The challenges experienced with regard to financing are magnified due to the fact the Member States do not contribute to the JAES process. Therefore, implementation of operational activities and concrete projects rely almost exclusively on EU financial instruments, managed by the EC in particular the EDF, resulting in unbalanced division of labour between the African and the European side. This situation is unsatisfactory and the onus lays squarely with the African side to begin to finance a strategy it has bought into and move away from the donor-recipient relationship, a principle enshrined in the JAES, but not implemented.

VI. WHAT NEEDS TO BE DONE DIFFERENTLY IN THE FUTURE

35. It will be recalled that during the Commission to Commission meeting of 26 April 2013, the two Commissions agreed that despite the current challenges, the partnership still remains relevant and should form the basis of Africa- EU. It was also stated that need to introduce new and innovative approaches to the architecture and implementation structures of the JAES if it is to achieve its objectives. However, to have a win-win situation; Africa has to exploit its full potential to manage and finance this partnership. The following are some of the proposed ideas looking forward:
- Revitalising the JAES
 - Revisit the number of priority areas that require intervention
36. The analysis below presents some of these ideas and preliminary thinking coming from the European and African Unions:



Future ideas	EU thinking	AU thinking
Revitalising the JAES by looking at the implementation arrangements of the JAES	Regarding the JAES working and implementation arrangements, the EU believes that there is a need to <i>move away from meetings of 'implementation teams' or 'informal Joint Expert Groups', and build on the functioning structures that both sides already use for their decision-making and implementation.</i> In respect to the decision making and coordination structures, the EU proposal is to <i>keep the current structure of Summits</i>, which should continue to take place every three years, <i>as well as the annual College-to-College meetings and completely get rid of the Ministerial Troika meeting/ Political dialogue meetings.</i> The EU believes that Ministerial meetings need to be held on a more flexible basis, both in terms of subject matter and timing. There may be <i>occasions for specific meetings on one-off topics</i>, such as education, infrastructure, or security crises. In addition, the EU thinks that we should more regularly take the opportunity to attend regular multilateral meetings, e.g. of the UN and other organisations, to hold Ministerial meetings in the margins, on the basis of a topical and operational agenda.	The implementation structures should be readapted based on our needs and the challenges faced by the First and Second Action Plans. In this regard, the brainstorming meeting is crucial to come up with concrete proposals on this matter.
Questions to be answered What are the African responses to the EU proposals on: • Getting rid of the Ministerial Troika/Political Dialogue Meeting? • Moving away from the JEGs? • Using existing structures (experts and ministerial sectoral meetings) for decision-making and implementation on both sides? • Getting rid of the Joint Task Force meetings? Do they want to keep JTF? • <i>What should be the new implementation arrangements compared to the present arrangements?</i>		
Revisit the number of priority areas that require intervention	The European Union thinking on the future priorities of the Partnership is to focus on three key goals for the next few years instead of the current eight areas: - Peace, democracy and human rights: aimed at ensuring peace and security on our respective continents, transparent, democratic and accountable governance and respect for human rights and the rule of law to help foster political stability and thereby enable sustainable and inclusive growth. - Sustainable and inclusive growth: aimed at stimulating growth to reduce poverty, create jobs, and unlock the entrepreneurial potential of the people in a sustainable way. This could focus on areas such as mobility and migration; free movement of goods, services and capital; infrastructure development; good stewardship of natural resources, and the development of a knowledge and skills-based society through education and gender-mobilisation. - Tackling global issues: aimed at enhancing cooperation and coordinating our political responses in the framework of multilateral diplomacy, especially on issues like climate change, gender, human rights, trade, and so forth.	AU believes that the priority areas should be aligned to the AU Strategic Plan, as this will create better synergy and focus on key priorities. The brainstorming should come up with concrete proposals
Questions to be answered What are the African responses to the EU proposals on: • Does the EU proposal dilute the development aspect of the Partnership? • How will these three areas proposed by the EU be reflected in practical terms? • What should be the areas of focus be vis-a-vis the priorities identified in the Strategic Plan?		

VII. IDEAS FOR THE WAY FORWARD

37. Clearly, this brainstorming meeting is critical to come up with a clear and focused African common position that the AU can use as a basis for negotiations with the EU. In this respect, the followings ideas that were put forward for further consideration by the meeting are recommended:

- An appropriate mechanism for *political dialogue* should be re-introduced;
- Show strong political commitment and willingness through the active *involvement of all stakeholders* (RECs, CSO, AU organs, MS, PS etc.).
- Put in place strong *coordination, monitoring and evaluation* mechanisms (use and strengthen available mechanisms. In this regard, the role of the various actors in the process needs to be clarified and the Africa-EU Dialogue coordination team strengthened to enable it to play its proper role;
- The AU Permanent Mission to the EU in Brussels should also be strengthened in order to form the link between the AUC and the EC, as well as monitor the activities and events in Brussels which could have a potential impact on the interests of Africa;
- The *Pan-African Programme* should provide a vehicle to address the medium to long term future challenges of financing. Most importantly, as a way of displaying political commitment to the JAES process, the African Member States need to identify ways in which they can contribute to the JAES. As long as AU Member States do not contribute to this process, the EU will continue to dictate the terms of the Partnership;
- More *advocacy, information sharing and brainstorming* is required

End Notes

1. Together with commissions' inputs – a staff working document (SWD) was developed which addressed the progress made in the implementation of the First Action Plan, as well as the problems and pitfalls encountered. The SWD pinpointed the implementation difficulties and some of the key issues to be addressed. The assessment report was drawn up on the basis of this.
2. These include the Pan-African Parliament (PAP); the African Court of Human and People's Rights (AfCHPR); the African Commission of Human and People's Rights (ACHPR); and the NEPAD Planning and Coordinating Agency (NPCA).

The question is **HOW** some of the above **can** be **achieved**!

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**4th Congress of
African
Economists**



CALL FOR PAPERS

Theme: “Industrial Policies and Economic Performance in Africa”

The Department for Economic Affairs of the African Union Commission (AUC) organizes every two years the African Economists Congress (AEC). The AEC is a continental Economic Policy Debate framework which aim is to analyze emerging economic problems that are critical to Africa's inclusive and structural transformation in order to identify and propose optimal solutions. This fourth AEC is expected to attract best African Economists within Africa and its Diaspora to deepen the understanding of the link between Industrial Policy and Economic Performance in the continent. As a continuation of a series of congress the Fourth edition builds on the previous edition of the AEC which considered the theme of “**Industrialization and Economic Emergence in Africa**”. First Congress was organized on the theme: “**Towards the establishment of a Single African Currency**”. The Second Congress focused on “**How to achieve strong and sustainable Economic growth in Africa so as to reduce unemployment and sustain the dynamics of Regional and Continental integration**”.

The theme of the fourth edition of the AEC is “**Industrial policies and economic performance in Africa**”. During this Congress, the following sub-themes, among others, will be considered: (i) Industrial policy: conceptual and theoretical issues; (ii) Playback of industrial policy in the 1960-1980 periods, during the years of structural adjustment and the PRSP; (iii) Industrial policy in the context of regional integration in Africa; (iv) Industrial policy and inclusive growth in Africa; (v) Industrial policy and structural transformation in Africa; (vi) Comparative Industrial Policy: Experiences and lessons from other regions; (vii) Industrial policy and private sector development in Africa; (viii) Industrial policy, green growth and sustainable development. (ix) Main obstacles to industrial development in Africa; (x) Institutional framework for industrial policies.

Articles on the main theme and on the sub-themes are sought from African Economists, those of the Diaspora and those interested in finding optimal solutions to Africa's economic problems.

All manuscripts are reviewed and evaluated on content, language and presentation. The Articles must be accompanied by a summary not exceeding 1000 words and must be sent to the Commission on 15 November 2014 at the latest. The participation in the Congress of the authors of the Articles chosen will be borne by the African Union Commission.

All African Economists within the continent and the Diaspora, all economists across the world interested in debating on African industrialization process as well as all the development partner institutions are invited to this important Congress which is schedule to take place in 2015 at a venue and date to be communicated at the appropriate time.

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**4e Congrès des
Economistes
Africains**



APPEL À COMMUNICATIONS

Thème:
« Politique industrielle et performance
économique en Afrique »

Le Département des affaires économiques de la Commission de l'Union africaine (CUA) organise tous les deux ans, le Congrès des Economistes Africains (CEA). Le CEA est un cadre continental de débat sur les politiques économiques dans le but d'analyser les problèmes économiques émergents qui sont essentiels à la transformation structurelle et inclusive de l'Afrique afin d'identifier et de proposer des solutions optimales. Cette quatrième édition du CEA devrait attirer les meilleurs économistes africains, ceux vivant en Afrique et ceux de la diaspora afin d'approfondir la compréhension du lien entre la politique industrielle et la performance économique sur le continent. S'inscrivant dans le prolongement d'une série de congrès la quatrième édition s'appuie sur la précédente édition qui a examiné le thème de « **industrialisation et émergence économique en Afrique** ». Premier Congrès a été organisé sur le thème: « **Vers la mise en place de la monnaie unique africaine** ». Le deuxième congrès a porté sur « **Comment parvenir à une croissance économique forte et durable en Afrique de manière à réduire le chômage et soutenir la dynamique de l'intégration régionale continentale** ».

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Les articles sur le thème principal et les sous-thèmes doivent provenir d'économistes africains et de la diaspora et de tout chercheur intéressé à la recherche de solutions optimales aux problèmes économiques de l'Afrique.

Tous les manuscrits sont examinés et évalués sur le contenu, la langue et la présentation. Les articles doivent être accompagnés d'un résumé ne dépassant pas 1000 mots et doivent être envoyés à la Commission de l'Union Africaine le 15 Novembre 2014 au plus tard. La Commission de l'Union africaine prendra en charge la participation des auteurs dont les articles seront sélectionnés au Congrès.

Tous les économistes africains, du continent et de la diaspora, tous les économistes du monde entier intéressés par le débat sur le processus d'industrialisation de l'Afrique, ainsi que toutes les institutions partenaires au développement sont invités à cet important congrès qui aura lieu en 2015 à une date et lieu devant être communiqués au moment opportun.

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ANNOUNCEMENTS

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- Quotations of more than five lines should be indented without quotation marks.
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 - Article in book: Jean-Paul, Azam (1988). "Examen de quelques problèmes Econometriques soulevés par la Méthode d'analyse des Stratégies. "Dans stratégies de Développement Comparées, sous la direction de Patrick et Sylviane Guillaumont, Ed. Economica, Paris. pp. 157-164.

ANNONCES

Le revue Africaine de l'intégration et de développement (RAID), une revue offerte à tous les Africains pour faire connaître leurs idées et opinions sur le processus d'intégration régionale et continentale.

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