

Policy Management Report 13



The Cotonou Partnership Agreement: What role in a changing world?

Reflections on the future of ACP-EU relations

Geert Laporte



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

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Foreword

In a rapidly changing world the ACP-EU Cotonou Partnership Agreement (2000-2020) faces steep challenges. When Cotonou was signed in 2000 it represented a huge step forward in ACP-EU and international North-South relations. Cotonou was setting an ambitious and innovative agenda in terms of political dialogue, non-state actors participation, trade and development and performance based aid management. In several of these areas major progress has been realised, in others Cotonou was not yet able to live up to the high expectations.

In recent years some fundamental changes in the EU and the ACP cast a cloud upon the Cotonou Partnership and its future.

Several factors illustrate the rapidly changing ACP-EU landscape including the closer relations between the EU and the African Union with the Joint EU-Africa Strategy and the Economic Partnership Agreements (EPAs) which are likely to affect the unity of the ACP Group.

After one third of its projected life-span it is therefore time that the ACP and the EU reassess, reorient and perhaps reinvent the ACP-EU Partnership.

As an independent foundation, operating in the ACP-EU arena, ECDPM is willing to play a facilitating role in this debate. It will do so in the coming months and years through the mobilisation of the various key actors involved collective search for a new rationale.

I would like to thank all colleagues at ECDPM, partner institutes and associates who have contributed to this Policy Management Report. I do hope that this report can contribute to a rich and constructive debate on the future of ACP-EU relations in the coming months and years.

Dr Paul Engel

Director

List of acronyms

ACP	African, Caribbean and Pacific States
AfT	Aid for Trade
AU	African Union
CPA	Cotonou Partnership Agreement
CSS	Country Support Strategies
DAC	Development Assistance Committee
EBA	Everything But Arms
EC	European Commission
ECDPM	European Centre for Development Policy Management
EDF	European Development Fund
EPA	Economic Partnership Agreement
EU	European Union
LDC	Least Developed Country
NAO	National Authorising Officer
NEPAD	The New Partnership for Africa's Development
NIP	National Indicative Programme
NSA	Non State Actor
PASOC	Programme d'Appui à la Société Civile et à la Bonne Gouvernance (support programme to civil society and good governance)
RAO	Regional Authorising Officer
RIP	Regional Indicative Programme
RSS	Regional Support Strategies
WTO	World Trade Organisation

Acknowledgements

This policy management report aims to stimulate a constructive debate on the Cotonou Partnership Agreement and the future orientation of ACP-EU relations. It is based on the outcomes of a multi-stakeholder seminar organised by the European Centre for Development Policy Management (ECDPM) on 18-19 December 2006 on the occasion of its 20th Anniversary, and on recent ongoing debates and independent reflections in both the EU and the ACP.

The report is the fruit of a collective effort of ECDPM staff, Board and Associates who have been actively involved in the preparation, proceedings and follow-up of this reflective process. The author would like to thank all those who contributed papers, working-group reporters and seminar participants for their valuable inputs into this process. A special word of thanks goes to the French Ministry of Foreign Affairs (Directorate General for International Co-operation and Development) for supporting this ECDPM initiative and to Sabine Mertens, Senior Executive Assistant, for her continuous support in organising the ECDPM 20th Anniversary seminar.

Can Cotonou stand the test of time?

By Ambassador Lingston Cumberbatch, chairman of the ECDPM board, (Maastricht, 18 december 2006)

Your Excellencies, Ladies and Gentlemen, on behalf of the Board and the Director and staff of ECDPM, I would like to say how pleased we are to see you here today and to thank you most sincerely for coming to Maastricht to share your views with us on the Cotonou Partnership Agreement and its role in a changing world.

This meeting has been organised in celebration of the 20th anniversary of the ECDPM. Before becoming Chairman of the Board, I was an avid reader of ECDPM's publications and a participant in many of their highly useful and instructive workshops on the ACP/EU relationship. The Board is admirably reflective of the partnership. It falls to me to express our sincere thanks to the government of the Netherlands whose endowment of the Centre is a gift to the ACP and whose continuous support for the Centre has been invaluable. Thanks must also go to several Member States of the EU and other European countries who provide core and programme funding to the Centre and to an excellent and dedicated staff.

I should also like to say a special word of thanks and congratulations to the Finnish EU Presidency for their active interest in the EPA negotiations and for their contributions to the process. A word of thanks also goes to France for their financial support to this ECDPM initiative.

I believe, ladies and gentlemen, that the Cotonou Agreement, epitomises the relationship between the ACP and the European Union and is highly valued by both sides. But in a changing world with shifting priorities, can it stand the test of time? Has it been sufficiently flexible and dynamic in assisting ACP countries in meeting new challenges from within their own realities?

We now have some experience of the implementation of the new aid delivery and management systems and are in the process of transforming the trade relationship from non-reciprocity to reciprocity. Cotonou introduced more rigorous demands on both partners in the field of human rights and the rule of law. Recently new and different strategies for Africa, for the Caribbean and for the Pacific have been

introduced by the Commission and of course we have the regionally negotiated Economic Partnership Agreements.

Since 2000, we have seen a further enlargement of the EU and the emergence of new orientations. We have also seen the entry of major new economic powers on the global scene jostling for energy and natural resources and from an ACP perspective competing for markets in the EU. A competition which can only intensify as the EC pursues its new “ambitious” free trade agreement strategy, with its focus on “behind border” issues. While Africa is becoming an increasing target in the hunt for various sources for energy and mineral resources this latter dimension also needs to be borne in mind. Africa is of course responding on its own initiative to these developments, with the AU moving strongly to provide support, cohesion and common action. Another interesting and relevant development is the Africa-South America Summit, the first of which was held in Abuja recently and was preceded months earlier by preparatory meetings in Addis Ababa, Ethiopia and Santiago, Chile.

The Caribbean and the Pacific are clearly the lesser players in the ACP-EU relationship and despite protestations to the contrary, policy seems designed to de-ACP them. The EU in its strategy for the Caribbean for example, has stated that its objective develop links between the Caribbean and the wider region, including Central and Latin America.

Given the particular needs and opportunities, inevitably some regionalization of relations would be beneficial. Yet the common nature of many of the problems should not be lost sight of. As a small island economy, you face the same vulnerabilities and constraints on engaging competitively with the global economy. This is the case whether you are in the Caribbean, Pacific or Indian Ocean, whether you're a competitive banana producing country such as Cameroon or Belize, or a low cost sugar producer such as Swaziland or Guyana, you face the same uncertainties and opportunities arising from a rapidly evolving global sugar sector.

There is an urgent need to share common experiences, learn and share the different lessons of that experience and ensure that best practices are replicated whether they are drawn from experiences in the Caribbean the Pacific or Africa.

This is particularly necessary for the Economic Partnership Agreements. As we approach a critical stage in the negotiations there is an even greater need for more systematic exchanges of information on all aspects of the final agreements to be concluded.

What does all this mean for the ACP-EU partnership?

I have become, inexorably, one of the dinosaurs of the ACP-EU partnership so my vision is probably blurred because I see this long-standing partnership in a very positive light. In the 1970s although I was based in Geneva, I had cause to visit Brussels quite often and saw the beginning of the transformation of the relationship of several of the then Member States with their former African, Caribbean and Pacific colonies into one largely characterized by an emphasis on equality. This was reflected in Lomé I which is generally acknowledged to have been the most progressive of the Lomé Conventions.

Thereafter, through Lomé II, III, IV and the Cotonou Agreement, perceptible changes have been made. History will judge, and perhaps you at this meeting will judge, whether the Cotonou Agreement or parts thereof took the relationship a step forward or a step backward.

I think that we can all agree that the EU has been not only the largest source of aid to ACP countries and regions, but that aid has been organized in a structured, continuous, predictable, comprehensive long-term framework, central to which was the concept of programming first introduced over 30 years ago. There are no other forms of international aid that are so organized, although many have sought to follow the example of programming which since 1975 has placed the recipient at centre stage. This has been of enormous benefit to ACP countries in permitting them to better design their development programmes and to plan ahead. As a former public servant dealing with the EU, I also greatly valued the programming process. For many years this determined how the bulk of EU aid to ACP countries was deployed. In an era when commodity prices were unstable and on a downward trend, many ACP countries derived significant benefit from the innovative STABEX system introduced in Lomé I. The SYSMIN scheme introduced under Lomé II enabled a number of countries to receive funds to support the diffi-

cult challenge of economic restructuring in mineral dependent economies.

On the trade side, very real benefits have been gained in those areas where significant margins of tariff preference are enjoyed, with the ACP becoming major suppliers to the EU in some sectors. In many respects, although the ACP saw some very tough years during this period, they would have been much worse without the non-reciprocal trade preferences extended under the Lomé Conventions.

On the political side, I value very highly the increased prominence given in the partnership to issues of good governance, human rights and the rule of law. In my early years as an Ambassador in Brussels, the Committee of Ambassadors avoided discussion of politically sensitive issues. This is no longer the case but there still remains a residual reluctance to face some sensitive issues head on. Fortunately there are no such inhibitions in the Joint Parliamentary Assembly which has played a key role in dealing with these issues.

Political dialogue is a long-standing feature of the relationship which has been worthy of emulation. So too is the consultative process particularly as regards Article 96 issues.

In all of these areas that I have mentioned there are new and potentially divisive challenges.

While we need to address these challenges, we also need to keep them in perspective. The EU is a tremendous force for good in a world plagued by conflicts and instability. In the past 15 years as new challenges have emerged the EU has stepped up to meet these challenges, be it conflict resolution, environmental degradation or the links between trade and development. However, institutional development and operational management procedures have not always kept pace with the EU's ambition and this is creating a situation where the EU does not always get the credit it deserves for the initiatives it takes.

Nowhere is this more apparent than in the sphere of development policy management, as this relates to ACP-EU cooperation. Naturally enough, given that we are at ECDPM, it is on these aspects which I wish to focus.

1. *The political relationship*

The first Lomé Convention which encapsulated the relationship between the European Community and the ACP States was based on the concept of a “partnership between equals”. This reflected a certain post colonial theology in which former colonies, having attained their independence, had joined the other members of the international community as “equals”. This posture was also a product of the Cold War when most ACP countries were non-aligned and several pursued policies oriented to those of the Soviet bloc and were courted by the EC and other western powers.

Originally the ACP-EU partnership focused on economic cooperation. Neither the EEC nor the ACP countries were ready to extend their cooperation to political issues. The initiative in doing so was taken by the EC in 1985 when it sought to introduce a human rights clause in the Lomé III Convention. At that time this was deemed by the ACP to be in contradiction to the principles of sovereignty and equal partnership.

The Community had, in fact, taken unilateral political action against several ACP States by suspending them from cooperation for alleged human rights abuses but such action fell outside the remit of the Convention. The introduction of a link between development and human rights, respect for democratic principles and the rule of law was a major feature of the Lomé IV Convention and codified in Article 5 as essential elements. The Cotonou Agreement in Article 96 has strengthened the essential elements clause and reinforced it with a mechanism for prior consultation to preclude unilateral action by the Community except in “cases of special urgency”. Good governance has been defined as “the transparent and responsible management of human, natural, economic and financial resources for the purposes of equitable and sustainable development” and deemed a “fundamental element”. However, only in serious cases of corruption will the suspension procedure be initiated. But a new and broader definition and focus is being given to governance. Politics is, therefore, one of the pillars of the partnership. Political dialogue, previously confined largely to issues of political conditionalities with ACP Governments is now being used as a tool to manage the partnership; to assess, when reviewing the implementation of programmes, progress in individual countries on human

rights, democratic principles and the rule of law. Representatives of civil society can now be associated with this dialogue.

And yet, dialogue between ACP and EU leaders, a constant in previous years, is becoming less and less frequent. Regular and personal contacts and discussions between ACP and EU Heads of State and Governments and at the Ministerial level about ACP matters contributed significantly to the closeness of the relationship and the success of the cooperation. In meetings of the ACP-EU Council, EU Ministers rarely turn up. This is due partly to their lack of interest in ACP matters and partly to the sterility of the agendas and procedures where important political issues do not feature. It is not that European leaders are not interested in Africa. Their attendance at AU, Asian and Latin American Summits attest to their interest.

2. The Trade Relationship

The most substantive and far-reaching change in the ACP-EU relationship is in the area of trade. The Cotonou Agreement laid the basis for the end of non-reciprocal trade preferences in favour of ACP countries and for the negotiation of free trade agreements (Economic Partnership Agreements (EPAs)) between the Community and different regions of the ACP. Two of the four Commodity Protocols have come to an end and the Sugar Protocol whose benefits are expected to diminish with CAP reform is being reviewed. The instruments of STABEX and SYSMIN which had provided for compensation for revenue losses resulting from fluctuating commodity prices and support for the development of mineral resources in ACP countries respectively were abolished under Cotonou. Provision for loss of earnings from commodity exports must now be provided for in the programming process. FLEX, the replacement for STABEX has proved to be singularly ineffective in meeting ACP needs.

There is as yet no common ACP view as to the possible effects of EPAs but some commentators suggest that EPAs, involving as they do the opening up of ACP markets to competition from more competitive and often subsidized imports from EC enterprises, will result in loss of market share by local producers in domestic and regional markets, loss of import revenue which ACP Governments badly need

and that costly and painful adjustments will be needed.

Despite scepticism in some quarters, ACP States have committed themselves to negotiating these new trade arrangements.

It is essential that the EPA's are developmental. Trade preferences were originally meant to be developmental and EPAs must be likewise. They must not merely be instruments for the exchange of trade concessions but they must be inextricably linked with other developmental measures and backed by resources to help restructure ACP economies, address supply-side constraints, address the problems of adjustment and the loss of Government revenue resulting from the removal of import duties. This will require substantially more resources than those provided under the 10th EDF.

Both the ACP and the EU must ensure that EPAs contribute to deeper regional integration and not stifle organic growth. EPAs should also increase rather than decrease the scope for intra-ACP cooperation.

Financial and technical cooperation

In the areas of financial and technical cooperation, more and more discretionary powers are being assumed by the Commission. Conditionality and European leverage were increased under Lomé IV, and particularly by the Mid-Term Review. Under Cotonou less than half of the EDF funding is being provided through national and regional programming processes and more and more money is being deployed through discretionary instruments managed by the EC and less and less by ACP governments and institutions. This raises fundamental questions about the true nature of the partnership. Is EU aid meant to support locally defined priorities in line with locally defined needs and aspirations, or is it to promote an EU policy agenda? Not only is the role of ACP institutions being marginalised but so too is the ACP Secretariat. But we must ask ourselves whose fault is that?

While the scope of what the EC is trying to support has expanded to bring in the business community and other non state actors, to cover the environment and private sector development, infrastructure, HIV/Aids to name a few, the procedural arrangements for the deployment of EC aid have not evolved in a sufficiently

constructive way and are proving to be inadequate. It can sometimes take many years from the nominal allocation of funds to get to the signing of contracts for the implementation of activities. These time lags are particularly damaging when the needs is to support dynamic adjustment to highly “time sensitive” processes of economic adjustment. This challenge of establishing new procedures for the deployment of time sensitive support to economic adjustment processes, often involving private sector actors, is one that needs to be addressed. Under individual programmes (the rum programme in the Caribbean and SYSMIN operations in Southern Africa) there are examples of innovation, but the process of change is too slow and is rarely systematically built up, to establish new best practices. Equally there is often a problem in reconciling new approaches with established partnership principles. In meeting these challenges there can be little doubt that we all need to ‘up our game’

At its Summit in Khartoum, ACP Heads of State and Government acknowledged that the ACP are facing serious challenges. Among the challenges are the need to:

- reconcile the relationship, including in particular its development orientation, with the requirements for integration into the world economy. The relationship will necessarily have regional variations, and needs to be customized, but the principles and approaches should be similar;
- assist in the development of governance in ACP countries at all levels - the legislature, the executive and judiciary, and civil society. Again, regional needs will differ to some extent and will require customized approaches;
- encourage EU countries - with a special challenge in respect of the newer members of the EU - to be more open to the opportunities offered by the diversity of ACP countries, not only in respect of resources and markets, but of their immense cultural and human wealth.

The ACP Heads of State agreed that the ACP Secretariat has a major role to play in addressing these challenges but acknowledged that it will require a much strengthened Secretariat and a determined effort to implement the decisions of the current and previous Summits. It will also need a reform of ACP institutions to streamline their functioning to ensure they can more effectively engage in a growing range of pressing issues not necessarily linked to aid and trade. This requires a more effective engagement from both ACP and EU governments and

more effective support in reforming EC procedures to equip them to meet the new challenges.

Ladies and gentlemen, as I have stated previously, I believe that the European Union is a force for good in the world. When, over the next few days we, coming as you are from the Member States, the Commission, the ACP, NGOs and academia, examine the Cotonou Partnership we must bear this in mind and focus on ways in which the ACP/EU relationship can truly be made a partnership and a joint force for good. It would be a shame to let the potential of the ACP, which quite literally spans the globe, go to waste after such solid foundations have been laid over the past 30 years.

Ambassador Lingston Cumberbatch
Chairman of the Board of Governors

Executive Summary

When the Cotonou Partnership Agreement (CPA) was signed in June 2000 it was heralded as an innovative framework for development, adapted to the needs of international cooperation in the early 21st century. Cotonou will be there until 2020, but after one third of its life-span, it is good to assess to what extent it delivers on its multiple promises. Has the CPA really contributed to more and better development in the ACP? Has the CPA been able to increase ownership and bring about greater equality in the partnership between the EU and the ACP? What progress has been realised in terms of implementation?

There are also more fundamental questions about the future of the CPA and the longstanding ACP-EU cooperation: will the CPA 'survive' and remain relevant in a rapidly changing world? What will be its added value?

ECDPM aims to promote a constructive debate on these crucial issues. This report, which is largely based on a multi-stakeholder seminar is composed of three parts. Chapter I is framing the debate, in chapter II, it reflects on the actual progress of the CPA implementation in its key areas of innovation and in chapter III it reassesses the relevance of the CPA in light of major political changes in the global and overall ACP-EU context.

I. How has the CPA delivered on its key innovations?

The shift from Lomé to Cotonou was more than a change of names. It was the intention of the new partnership agreement to mark a clear break with the past and to modernise the overall approach to ACP-EU cooperation. Stakeholders in both the EU and the ACP recognise the great potential of the CPA in providing an ambitious and comprehensive framework for new forms of international relations. However, after several years, there are still major challenges in implementation.

(1) Sound politics as a key pillar of the CPA

The reinforced political dimension of the CPA has proven to be a valuable and timely innovation. More specifically, the CPA has paved the way for comprehensive external relations between the EU and the ACP, beyond aid and trade; rather it

has resulted in much closer links between the EU's development policy and other external policies (foreign policy, security, governance, migration, etc). However, the concrete application of the political provisions of the CPA is still confronted with several constraints, including an eroding informal and formal (high level) dialogue between the ACP and the EU and the risk for double standards and unilateral action in the partnership. Several proposals to restore an effective and balanced political dialogue have been made:

- **Ways to conduct the political dialogue between the ACP and the EU could be further refined** by (i) ensuring that the dialogue takes place on an equal footing between both partners, (ii) avoiding that the dialogue between the two groups of countries might become hijacked by one issue (such as Zimbabwe) and (iii) working out the most effective format for dialogue by clearly defining who should participate, at what level and how. There is a need for more frequent ACP-EU high level dialogue, while not excluding the expansion of dialogue at a more technical level involving also the civil society.
- ACP countries strongly emphasize **mutual accountability** in the partnership. This means that the EU should also comply with its responsibilities in the contractual agreement and that ways should be found to hold the EU accountable on issues such as policy coherence and effective delivery of aid.
- A **consistent application of the political provisions** by the EU would significantly strengthen the impact of the CPA in the political arena. With the emergence of new non-traditional donors (China, India, Brazil, the Middle East, etc.) the credibility of the EU's values, governance and democratisation discourse are being put to the test.

(2) Opening the partnership to non-state actors

The CPA strongly emphasises the participation of Non-State Actors (NSAs) as a fundamental principle of cooperation. A multitude of NSAs are now legally given opportunities to participate as genuine development partners at various levels and in various stages of the ACP-EU partnership. These major innovations in the text of the CPA have raised high expectations. In several ACP countries a vibrant civil society has gradually discovered the potential of ACP-EU cooperation.

However, the record in terms of the quality of participation has been mixed. There is still a long way to go before participation of NSAs and local governments is

properly mainstreamed in an effective and sustainable way.

The implementation of NSA provisions in the CPA could be enhanced through the following actions:

- It seems essential to **adopt a governance approach to participation** instead of instrumental approaches. This means recognising that participation is all about empowerment and about societal transformation. Where possible participation and EU funding should promote collaboration with central and local governments instead of exacerbating competition.
- The **quality of the participatory process needs to be strengthened**. Experience suggests that the quality, effectiveness and sustainability of programmes to support civil society largely depend on a proper articulation with national reform processes (e.g., decentralisation, good governance, public-sector reform) and on cooperation with key institutions (political bodies, sector ministries).
- Major investments in **capacity building and raising awareness of NSAs** need to be increased. Civil society in ACP countries should invest in improving internal governance systems, self-structuring, and developing complementarity between different categories of NSA actors. Northern NSAs could play a useful role in the capacity development of ACP partners in full respect of the autonomy of the Southern NSAs.
- More investments should be made in **strengthening the capacity of EC delegations** in facilitating and managing NSA participation in a more strategic way. Rather than adopting technocratic, instrumental or project approaches to NSA participation, EC delegations should invest more in mainstreaming participation in all ACP-EU policies and programmes. This could reinforce the role of the EC as change agent. For this to happen, however, there is a need for improvements in the quality and quantity of EC staff, a review of the European Development Fund's (EDF) current procedural framework and a reduction of disbursement pressure.
- The CPA and the Paris Declaration reflect the shift towards alignment, harmonisation, decentralisation of decision-making and new mechanisms for aid delivery (e.g., sector-wide approaches, budget support). The new aid paradigm calls for a **redefinition of the roles played by Northern development actors**, including NSAs in an increasingly complex, politicised, multi-actor, system. A major challenge ahead is to implement the new 'Paris' approach properly

through both geographic and thematic instruments.

- Much more investment could be made (by the EC, ACP and NSAs) in **strengthening the capacity to learn and to capitalise on experience**. Lessons learnt should not only permeate EC delegations but should also reach EC headquarters and the offices of national authorising officers (NAOs), and they should be properly internalised by decision-makers in their day-to-day work.
- Supporting NSAs in most countries tends to be a highly sensitive political exercise, with serious risks involved. This requires courage and **flexibility, knowledge of the overall policy context and risk-taking** which is sometimes difficult to ensure within bureaucratic ACP-EC institutions.

(3) A new framework of reciprocal trade relations

The Lomé Conventions (1975-2000) were the most ambitious North-South trade agreements to date, covering non-reciprocal trade preferences, mechanisms to stabilise export prices, as well as commodity protocols for bananas, rum, sugar, beef and veal. These were considered to be measures conducive to development in the ACP. However, the Lomé trade regime did not achieve its expected results. Despite preferential access to EU markets for most products the ACP share in European imports dwindled from nearly 8% in 1975 to 2.8% in 2000. Half of all ACP exports to the EU are still concentrated in just eight products. Perhaps the most striking thing is that non-ACP developing countries that did not benefit from the Lomé trade preferences have been outperforming the ACP countries in exports to the EU.

In addition to the disappointing results of the ACP-EU trade regime, tensions have also been growing between the preferences and the rules of the World Trade Organisation (WTO).

In this context, the EU and the ACP agreed in the CPA to make profound changes in the trade regime by negotiating WTO-compatible economic partnership agreements (EPAs). These EPAs are based on a number of key principles, including development and poverty eradication, reciprocity, regionalism and special and differential treatment. The following proposals could provide better guarantees for an effective and development friendly implementation of EPAs:

- **Far-reaching reforms in ACP countries** are needed to help restructure ACP econo-

mies, to tackle supply-side constraints and to address problems of adjustment and the loss of government revenue from import duties. This will only be possible if the international community complements ACP countries' own efforts. The EU should make serious efforts to provide extra support beyond EDF contributions.

- EPAs should **respect endogenous processes of regional integration** in the ACP. This means that a careful sequencing between the regional integration processes and the implementation of EPA commitments should be guaranteed. Flexibility and a clear willingness to adapt the implementation process of EPAs wherever and whenever needed are key factors for the success of EPAs.
- **Credible monitoring mechanisms** for implementing EPAs should be created. Clear provisions in the EPA legal text could help to ensure the compliance of both parties to agreed-upon commitments in implementing the provisions for both trade and development assistance. These monitoring mechanisms could also provide the necessary accountability to the general public
- There continues to be a major need for **capacity building** to negotiating and implementing the trade agreements – to ensure that the ACP will reap the benefits from EPAs. ACP countries are currently engaged in several negotiations: (i) at the regional level, (ii) with the EU in the EPA negotiations and (iii) at a multilateral level in the WTO negotiations. Outcomes at one level could have a profound impact on the negotiations at other levels. The technical discussions and negotiations on key issues, such as EU norms and standards (sanitary and phyto-sanitary issues, labour conditions, etc.), in particular, are creating major headaches for ACP countries and regions. It is therefore essential to put in place (financial) programmes and institutions that can also help to adopt appropriate accompanying measures, address supply-side constraints and strengthen the competitiveness of ACP products. The Aid for Trade (Aft) initiative recognises developing countries' needs for (financial) assistance to enable them to take advantage of the potential benefits from liberalised trade and increased market access.
- Beyond increasing the amounts for Aid for Trade, **aid delivery mechanisms and procedures** will need to be carefully designed to ensure the effective disbursement of funds. Given the operational weaknesses of the EDF, one could question whether the EDF is the most appropriate instrument for effective, timely and efficient delivery of Aid for Trade resources. The European Parliament and the EU member states, together with other European and ACP stakeholders can play an

important monitoring role in ensuring that appropriate additional resources and effective and timely delivery mechanisms are in place to accompany EPA implementation.

- While the EC (DG Trade, accompanied by DG Development) should be firmly in the driver's seat in the EPA negotiations, **EU member states** also have an important responsibility in ensuring that the EU sticks to agreed-upon commitments in terms of the development orientation of EPAs and financial support packages to the ACP.

(4) Rationalisation of instruments and management of performance-based aid

The negotiation of the Cotonou Agreement, which coincided with the ambitious EC aid-reform programme (1999), introduced various innovations in the area of rationalisation of instruments and aid management. One of the major changes was the replacement of the Lomé aid-entitlement system by allocations based on a combination of needs and performance criteria and a system of 'rolling' programming. The rationale behind these changes in aid management was to adopt a more flexible and strategic approach to cooperation that allows checking progress and making adaptations when and where needed in the five-year programming cycle. It has proven hard to make this new EDF aid management system work in practice. Several proposals have been made to make it more effective:

- As the EU seeks to implement the Paris agenda and move towards greater ownership and alignment with ACP country policies and procedures, the issue of **ACP ownership** needs to be given more attention. In line with the recommendations of the recent DAC Peer Review of EC aid, the time may also have come for a fundamental review of the system of NAOs in the management of EDF assistance. This longstanding system could be replaced by single government offices that coordinate all donor funding, using national procedures and cooperating closely with the appropriate line ministries that run national-development programmes to which donor funds are contributed. As direct budget support or sector-wide programme support become more common, this is also likely to become the way forward.
- With an increasingly participatory and sophisticated management of ACP-EU cooperation, more efforts should be made to **strengthening the capacity of EC**

delegations and the public sector in the ACP.

- Another important challenge is **to align** aid further, in line with the Paris Declaration on Aid Effectiveness. There has been some progress with the contribution agreements by making increased use of the systems and procedures in recipient countries. More joint programming among the EC, EU member states and other donors would also be an important step forward.

II. Continuing relevance of Cotonou in a changing world?

Beyond the challenges of making the CPA a more effective framework for ACP-EU cooperation between now and 2020 other more fundamental questions have emerged in recent years. The problems with implementation may be symptoms of a much more fundamental questioning of the relevance of the CPA and current asymmetrical ACP-EU relations.

It is therefore time to look already at the future and to re-assess the role of the CPA in a rapidly changing policy environment at global, EU and ACP levels. Some of the following factors have contributed to this **rapidly changing context**:

- The enlargement of the EU has shifted the EU's strategic interests to its immediate neighbours in the East and the Mediterranean.
- The negotiations for economic partnership agreements with six separate ACP sub-regions have put increasing pressure on the cohesion of the ACP Group.
- New actors, such as the African Union, entered the scene at the beginning of the new millennium as privileged partners of the EU.
- There is also a growing trend towards regional differentiation, reflected in the formulation of specific EU support strategies for Africa, the Caribbean and the Pacific.
- The ACP seems to have growing difficulties to project itself as a Group. This is even further compounded by the increasingly divergent economic and political interests among ACP countries, which was the case at the start of ACP-EU relations in 1975.

In this context of rapid global change, some **fundamental questions** that will determine the future of the CPA and ACP-EU relations need to be addressed:

- How can the CPA remain politically relevant in today's world, adjust to rapid changes and new global political realities, and become a stronger framework for international cooperation?
- What is needed to ensure that both the ACP and the EU continue to attach the same importance to the partnership as in the past?
- How can the CPA complement and mutually reinforce the new partnerships that the EU is building with specific geographic regions (Africa, the Caribbean and the Pacific, the European neighbourhood, etc.)?
- How can the ACP Group and the African Union better cooperate and complement each other?

On the basis of the various views expressed at the ECDPM seminar and other reflections **three possible scenarios** for the future could be extrapolated. Obviously, these will require more in-depth analysis to substantiate and test the strengths and weaknesses of each of the various future perspectives that have been put on the table.

Scenario 1: Cotonou is relevant but some 'mini-engineering' might be needed to make it work better

This scenario starts from the assumption that the CPA is still politically relevant for Sub-Sahara Africa, the Caribbean and the Pacific. The three regions joining together reinforce their bargaining power vis-à-vis other regional blocs. As the 'biggest development grouping in the world', comprising the largest number of least-developed countries and large groups of land-locked countries, small islands, and vulnerable countries, the ACP is the legitimate body to defend the interests of these countries on the multilateral scene and in relationships with the EU.

Aside from the CPA, there is no North-South cooperation framework that has such a sophisticated and stable contractual joint institutional framework for dialogue on political, economic and development issues.

Another area where it is argued that the CPA brings added value and still has potential is the framework for increased aid effectiveness. The CPA still provides a model for partnership, good governance, alignment and harmonisation, as well as policy coherence for development, coordination and complementarity. It has the potential to strengthen local and national ownership and multi-stakeholder

participation in development. Last but not least, the CPA is also seen to have concrete mechanisms for learning from experience through the comprehensive programming, mid-term review and end-of-term processes. Obviously, even in the eyes of the fiercest defenders of the CPA, all is not perfect; implementation modalities can be refined and bureaucracy reduced, but the fundamentals of the CPA should be preserved at any price.

Scenario 2: Cotonou and ACP-EU cooperation have no future and have become irrelevant in a changing world

In this scenario the longstanding ACP-EU framework is no longer effective in confronting the global challenges. There are new emerging powers in development with increasing interests in Africa. China and Latin America prefer to build special partnerships with African states and the African Union but not with the ACP.

The ACP Group has become increasingly fragmented, and the cohesion of the ACP Group risks being further threatened by the adoption of EPAs. There is an emerging African Union trying to unite the whole of Africa (including non-ACP North Africa). Clearly, the CPA does not respond to the African wish to treat Africa as one.

Similar changes have become apparent in the EU, which seeks to separately differentiate its partnerships with the African, Caribbean and Pacific groups of countries and with the various regional economic communities in the ACP. The ACP Group seems to be undergoing these changes that reinforce the perception that it is as an artificial construction that only can survive with the blessing of the EU. Outside its historical relationship with the EU, the ACP has been quite invisible in the rest of the world.

But neither does the EU (as longstanding defender and ally of the ACP) appear to attach the same importance to the partnership as it did in the past. The growing importance of regional groupings, particularly the African Union, has provided the EU with interlocutors with whom the EU can engage in a region-to-region political dialogue in a way that the ACP Group could not do. The various unique features of the CPA are gradually being taken over in new regional strategies and arrangements (e.g. Joint EU-Africa Strategy, EPAs, etc.). Critics of the CPA argue that these trends are irreversible and that it does not make sense to continue to defend the CPA at any price. The efforts of the ACP Group to turn the tide and to adjust will

be meaningless because the ‘tsunami’ of rapidly changing international interests and relationships cannot be stopped. In addition, critics argue that all this will be further compounded by the ACP Group’s lack of response capacity and that of its institutions. The poor leadership and lack of internal dynamics of the ACP Group and its Secretariat, as well as the slow ACP decision-making mechanisms and limited capacity in terms of human and financial resources further broaden the credibility gap.

Scenario 3: Cotonou still has potential, but fundamental adjustments are needed to confront new realities

This scenario starts from the assumption that several of the underlying principles and instruments of the CPA are still relevant for development. It should therefore be avoided to throw away the baby with the bathwater. However, significant adjustments are needed to ensure a future of ACP-EU relations beyond 2020.

- The innovations of the CPA are still a source of inspiration for a modern and original approach to international cooperation: political dialogue, participatory approaches, programming, performance-based management, etc. But, the challenge will be to make sure that this original **framework also works in practice** and that it can prove its relevance by producing more and better results in terms of development between now and 2020.
- On paper, the unique joint institutional framework of the CPA (Joint Council, Joint Committee of Ambassadors, Joint Parliamentary Assembly, etc.) provides ACP-EU relations with a **comparative advantage** over new configurations and emerging regional groupings, which cannot rely on such sophisticated frameworks. However, in order to **increase the political relevance** of the CPA, some changes could be made including (i) strengthening the ACP-EU dialogue beyond aid and trade by giving greater weight to issues, such as security, migration, governance, mutual accountability and policy coherence, (ii) making the substance of the dialogue more political and less technical by providing a lead role to the ACP ministers of foreign affairs (rather than the ministers of planning and finance – the NAOs – who mostly operate as aid managers in the discussions on CPA-related matters), (iii) ensuring the effectiveness of the dialogue by seriously reconsidering the format, which now comprises some 105 countries, (iv) entrusting the ACP Secretariat with a stronger leadership role with more

autonomy to give to the group and the CPA greater relevance in light of the emerging initiatives at the pan-African and regional levels.

- The diversity of the ACP Group should be seen as a force in the partnership, not as an obstacle. Flexibility, country differentiation and variable geometry can continue to exist as long as there remains **clear value-added and a shared role to be played by ACP institutions**. This would mean that the ACP Group acts either as a kind of binding force among the different regions or as a facilitating agency that links up the various interests and component parts of the ACP through the exchange of information, analysis and expertise. To make this happen, common ACP interests need to be redefined and ACP institutions will need to give proof of trust, leadership and capacity.
- The underlying principles of the CPA provide a **good foundation for enhanced aid effectiveness** by promoting good governance, strengthening local and national ownership, and programming multi-stakeholder development in the ACP, as well as harmonisation and alignment with regional and country-owned development strategies and coherence of development policy. As such, it has the potential to be an important framework for strengthening partner-country governance, donor transparency and mutual accountability. Although the Paris Declaration is driving the debate on aid effectiveness, **the CPA and the Paris Declaration can mutually reinforce each other as a solid basis for increased aid effectiveness**
- The CPA has the potential to play a role in defining what is involved in shifting from an unequal North-South, control-oriented partnership to a modern concept of **mutual accountability**. One of the ways to do this could be to exploit the CPA potential for policy coherence, by making a more informed and systematic use of article 12 on European policies affecting ACP development.
- The **potential added-value of the CPA** in a multi-polar world with lots of conflicting forces **will depend on what its members want to make out of it**. It appears that the EU is moving quite fast in making up its mind as to where it wants to go with the ACP-EU partnership. Between 2010 and 2020 EU Presidencies will be largely dominated by EU member states with no traditional affiliation to the ACP. ACP stakeholders seem to have understood the changing tide in the EU and are now also engaging in a similar reflection including at the level of ACP Ambassadors and the ACP Council. Possible revitalisation – or survival – of the CPA will therefore depend on the highest ACP political institutions and on a dynamic ACP Secretariat that is entrusted with a lead role in the implementation of the CPA.

ACP leadership, therefore, is confronted with an urgent challenge to improve the delivery capacity and to invest in developing a stronger ACP profile based on added value and complementarity with other emerging initiatives.

These initial reflections clearly show that the CPA and the long-standing ACP-EU partnership are facing steep challenges. ACP-EU partners are confronted with the challenging task of rethinking their relationship in the coming years. Cotonou will be there until 2020 but it is now time to prepare the future. As a non-partisan and independent foundation, ECDPM remains committed to assisting the various interested parties in this process.



Chapter I: Framing the debate



Framing the debate

In June 2000, the Cotonou Partnership Agreement (CPA, also referred to here as 'Cotonou') was signed between the African, Caribbean and Pacific States (ACP) and the European Union (EU). The new partnership, which will be in effect until 2020, was heralded as a ground-breaking and innovative framework for development, adapted to the needs of international cooperation in the early 21st century. Yet it seems particularly important to assess at regular intervals the extent to which this unique cooperation framework actually delivers on its multiple promises. What are the strengths and weaknesses of the CPA so far? What progress has been realised in the implementation of key CPA innovations? Has the CPA contributed to more and better development in the ACP? In addition to these questions on the current state of the CPA, there are also more fundamental questions about the future of the CPA and longstanding ACP-EU cooperation in a rapidly changing context worldwide, in both the EU and the ACP.

As an independent foundation specialising in ACP-EU relations, the European Centre for Development Policy Management (ECDPM) organised a multi-stakeholder seminar on 18-19 December 2006 that took stock of progress, difficulties encountered and the challenges ahead for the CPA. In recent years and months, there has been no shortage of interesting practices, experiences and lessons learnt that could be used to fuel an assessment of the CPA. These include the first five-year cycle of the European Development Fund (EDF) and its associated process of programming and review, as well as a wide range of independent country strategies and thematic evaluations on several key features of ACP-EU cooperation.

However, a reflection on the actual progress of CPA implementation is only part of the challenge. There is also an increasingly urgent need to look at the future and to re-assess the role of the CPA in light of major political changes in the global and overall ACP-EU context. Thus, with negotiations around economic partnership agreements (EPAs) in their final stage, there has been increasing pressure on the cohesion and response capacity of the ACP Group. New actors, such as the African Union (AU), are increasingly becoming privileged dialogue partners of the EU. There is also a growing trend towards regional differentiation, as evidenced in

the formulation of specific EU support strategies for Africa, the Caribbean and the Pacific, and the elaboration of a Joint EU-Africa strategy. Last but not least, there are fears that the partnership is gradually eroding as a result of rapid changes in the arena of EU development and external action and by the growing difficulties experienced by the ACP to project itself as a Group. While the CPA will be in place until 2020, there seems to be an increasing need among various groups of stakeholders to engage in a constructive debate on it, particularly on how it could remain relevant in today's world and how it could complement and mutually reinforce the new partnerships that the EU is building with the various regions.

Focus and approach of the ECDPM seminar

The CPA covers a broad range of thematic areas and sectors. In order to ensure focus, ECDPM concentrated the first part of the seminar discussions on the most important innovations that the CPA has sought to achieve, compared with the successive Lomé Conventions that shaped ACP-EU cooperation between 1975 and 2000. From the outset, it was claimed that Cotonou was more than a change of name: it was intended to mark a clear break with the past and to modernise the overall approach to cooperation in the new millennium.

Four key innovations were assessed by the participants on the basis of the following questions:

- *Has the increased political focus of ACP-EU cooperation contributed to development?* The CPA has put a much stronger focus on the political dimensions of partnership, as reflected, among other things, in the key importance attached to political dialogue and issues of governance, peace and security. To what extent has a stronger political focus contributed to achieving development objectives? What progress has been achieved in practice?
- *Has Cotonou succeeded in broadening the partnership?* The CPA recognises the need for a multi-actor approach to partnership. For the first time, both the ACP and the EU signatories have committed themselves to involving non-state actors and local governments in all aspects of ACP-EU cooperation. Has Cotonou succeeded in promoting dialogue and collaboration between state and non-state actors in the pursuit of common development objectives? What

- has worked well and led to beneficial outcomes in the field? What bottlenecks have been encountered in the process of implementing these changes?
- *Are economic partnership agreements (EPAs) instruments for development and poverty reduction?* To what extent do EPAs offer opportunities to contribute to CPA objectives, notably poverty reduction (which is the central objective of the CPA), and other international commitments, such as the Millennium Development Goals?
 - *Has performance-based aid management and programming and the rationalisation of instruments contributed to more effective and efficient development?* The CPA has introduced major innovations, such as the performance-based review process and multi-annual ‘rolling’ programming. At the same time, efforts have been made to decentralise decision making to the field, to rationalise the complex set of administrative and financial procedures and to introduce new aid modalities, such as budget support. Have these changes been positive from a development perspective? Do they match the realities encountered by developing countries? Are they compatible with the delivery of high-quality aid?

The *second part* of the discussions focused on the rapidly changing policy environment in which the CPA has to operate and the ways in which this could affect future ACP-EU relations. Participants were invited to identify and analyse evolving trends and to present options and scenarios for the future. The following questions provided guidance to the debates:

- *How can Cotonou remain politically relevant in a context of major and rapid change?*
- *What will be the complementarity between Cotonou and the new EC regional strategies for Africa, the Caribbean and the Pacific?*
- *How can the ACP and the EU work together and complement each other?*
- *Will EPAs and regional differentiation tear the ACP Group apart? What will be the future of the ACP?*

This report

This policy management report is comprised of two parts:

- The first part is an assessment of progress realised in the key innovative areas of the CPA. Findings are largely based on a number of analytical background papers (see annexes) and the outcomes of the ECDPM seminar of 18-19 December 2006. A similar structure is followed for each of the key innovative areas: (i) context, (ii) guiding questions, (iii) progress so far, (iv) constraints and (v) the way forward: implementation challenges.
- In the second part of the report, the emphasis is on the future and the continuing relevance of the CPA in a changing policy environment. Some future scenarios for ACP-EU relations are elaborated, based partially on the seminar findings and partially on other, more recent, sources of input in the ongoing debate on the future of ACP-EU relations.

Chapter II: How has the CPA delivered on its key innovations?



To a large extent, the first part of this policy management report follows the structure of the ECDPM seminar of 18-19 December 2006. Analytical papers (see annexes) and four working-group sessions assessed current progress in the four key areas of CPA innovation: (i) the political dimension of the CPA, (ii) the participation of non-state actors in the partnership, (iii) economic partnership agreements as new instruments for reciprocal trade relations and (iv) the rationalisation of instruments and performance-based aid management.

1 Sound politics as a key pillar of the CPA

1.1 Context

While the Lomé Conventions were essentially economic agreements, the CPA has put politics at the heart of the partnership. Until 1985, neither the EEC nor the ACP countries were ready to extend their cooperation to the political arena. Tentative steps to ‘politicise’ cooperation were taken by the EC in 1985 when it sought to introduce a human-rights clause in the Lomé III Convention. At that time, this was deemed by some ACP partners to contradict the principles of sovereignty and equal partnership. The introduction of a link between development and human rights, respect for democratic principles and the rule of law was a major feature of the Lomé IV Convention (Article 5). Signed in 2000, the CPA is underpinned by a set of jointly agreed-upon core values or essential elements (respect for human rights, democratic principles and the rule of law), whose violation can lead to the suspension of the partnership. In Article 96, the CPA has established a mechanism for prior consultation to preclude unilateral action by the Community except in ‘cases of special urgency’ and this was further strengthened in the CPA review in 2005. Good governance has been defined as ‘the transparent and responsible management of human, natural, economic and financial resources for the purposes of equitable and sustainable development’ and deemed a ‘fundamental element’ in the partnership.

Political dialogue, previously confined largely to issues of political conditionalities with ACP governments is now meant to be used as a tool to manage the partner-

ship. Through political dialogue, the parties are invited to discuss all possible issues of mutual concern.

1.2 Guiding questions

The following questions served to guide the discussions on the political dimension of the CPA.

- To what extent have the political provisions helped to enhance the effectiveness of the CPA as a tool for promoting the development of ACP countries?
- What changes might further improve the CPA chapter on ‘Political Dimensions’ so as to enable the EU and the ACP to fully tap the development potential of political dialogue?
- What are the main priorities in the coming years for effective mainstreaming of ‘governance’ into the various processes of ACP-EU partnership, including the ‘governance’ of EU external action?

1.3 Progress so far

- **Recognition of sound politics as a cornerstone for development.** The political dimension of the CPA has proven to be a valuable and timely innovation. In recent years it has provided a framework for a number of important debates. More specifically, the CPA has opened the partnership to a broader range of debates, which have emerged more prominently since the beginning of the new millennium (e.g., peace, conflict, migration, governance). From that perspective, the CPA’s political provisions have enhanced ACP-EU cooperation and helped adapt it better to changing circumstances and challenges. A broader range of partners has also been involved, including non-signatories to the CPA, such as the African Union, and a wide range of non-state actors.
- **The political dimension has elevated the ACP-EU partnership beyond aid.** The introduction of the political dimension in the CPA has paved the way for comprehensive external relations between the EU and its ACP partners. It is no longer a relationship that is exclusively based on aid; rather, it has resulted in much closer links between the EU’s development policy and other external policies, including foreign policy, security and migration.

In that respect, the CPA was also a child of its time whose negotiation was clearly influenced by major developments at the EU level, including the Maastricht Treaty introducing the Common Foreign and Security Policy (1992) and the Treaty of Amsterdam with the European Security and Defence Policy (1999). The importance of development policy in tackling the root causes of conflict, security and illegal migration is now increasingly recognised. Clearly the CPA has contributed to raising the status of development in the broad range of the EU's instruments for external action.

1.4 Constraints

Several bottlenecks in the implementation of the political provisions of the CPA have been identified:

- **Erosion of (high-level) dialogue.** In the past, regular contacts (both formal and informal) between ACP and EU heads of state and ministers (the joint EU-ACP Council) have contributed significantly to the success of the ACP-EU partnership. In recent years, however, this type of high-level dialogue between ACP and EU leaders has become less frequent. An increasingly large group of ministers from EU member states no longer participate in joint ACP-EU Council meetings. This is due partly to a growing lack of interest in ACP matters and partly to a certain degree of sterility in the debates, where important political issues seem to be avoided. The apparent disengagement by the EU and erosion of the dialogue has caused irritation in ACP circles. It has also contributed to increasingly asymmetric power relations in the ACP-EU partnership.
- **Risk of double standards.** The CPA strongly advocates governance as a precondition for effective development. The political priority given by the EU to governance in its external action has coincided with growing domestic demand in the ACP (particularly Africa) for improved governance (e.g., NEPAD, the African Peer Review Mechanism, etc.). While the official ACP side seems to fully recognise the importance of democracy and good governance for economic and social development, there is still a degree of wariness about this change. ACP governments have expressed particular concern over some of the new 'rules of the game' of the political dialogue, including the lack of clear guidance on (i) how and when political dialogue on (perceived) violations of essential elements would shift into article 96 consultations, (ii) how and when such obligatory

consultations would result in appropriate action and (iii) what such unilaterally defined actions would entail. It is also feared that the so-called ‘sanction articles’ 96 and 97, relating to non-execution of the essential and fundamental elements of the Cotonou Agreement would be implemented inconsistently, allowing new forms of European conditionalities to creep in through the backdoor. Different experiences with political dialogue, conditionalities and sanctions (e.g., Zimbabwe, Ethiopia, etc.) illustrate some of the dilemmas that the EU is facing in consistently applying what it preaches. Jointly agreed-upon common values in the CPA risk being undermined when self-interest overrules values.

1.5 The way forward: Implementation challenges

- Refine ACP-EU political dialogue
- Strengthen mutual accountability as a response to asymmetric power relations
- Ensure coherent application of political provisions
- Ensure synergies between Cotonou and the Paris Declaration

Several proposals to restore an effective and balanced political dialogue could be considered:

- **Refine the political dialogue.** Ways to conduct the political dialogue under the CPA could be improved by (i) ensuring that the dialogue takes place on an equal footing between both partners, (ii) avoiding the possibility that the dialogue between the two groups of countries might become hijacked by one issue (such as Zimbabwe) and (iii) working out the most effective format for dialogue by clearly defining who should participate, at what level and how. Improving the dialogue could foster ownership of the process and more pro-active, strategic involvement of the ACP in the political aspects of the CPA. Seminar participants also stressed the need for more frequent ACP-EU dialogue at a ministerial level, while not excluding the contribution and expansion of intense dialogue at a more technical level. Ensuring more systematic participation of civil stakeholders in the political dialogue could be fostered.
- **Strengthen mutual accountability as a response to asymmetric power relations.** There is an increasing wish in the ACP to ensure that accountability does not only flow from the ACP to the EU but also from the EU to the ACP. This means that the EU should also comply with its responsibilities in the contractual agreement and that ways should be found to hold the EU accountable on issues such as policy coherence and effective delivery of aid. In that respect, a better and more systematic use of article 12 of the CPA was advocated.
- **Ensure coherent application of political provisions.** With the emergence of new non-traditional donors (China, India, Brazil, the Middle East region, etc.) in Africa, the credibility of the EU's governance discourse and the political dimension of the CPA are being put to the test. Some ACP interlocutors have wondered whether the EU, in practice, is genuinely committed to the values and principles of governance and democratisation or whether it adapts its governance discourse and approaches to more opportunistic considerations. In the case of China, which strictly refrains from any type of discussion on governance issues in Sino-African relations, it could be useful to reinforce the emerging trilateral dialogue (EU-Africa-China) so as to discuss common values and coherent approaches.
- **Ensure synergies between Cotonou and the Paris Declaration.** There are other challenges related to the growing importance of governance under the CPA,

including the commitment under the Paris Declaration to improve the effectiveness of aid. The alignment of donors behind poverty-reduction strategies owned by partner countries opens new opportunities but also raises new questions. Some fear that new aid modalities, such as budget support, might further reduce the incentives for donors to engage in frank and open political dialogue. The implications of these changes need further reflection and analysis.

2 Opening the partnership to non-state actors

2.1 Context

The Lomé Conventions always reserved a lead role for central governments in ACP-EU relations. There were only a few opportunities for other development players (e.g., civil society, the private sector, local and central governments) to participate in ACP-EU cooperation or to access resources. Opportunities for structured dialogue on key policy issues or on cooperation priorities were rare. In the 1990s, this central-government monopoly was seen as contradicting the major changes taking place in ACP societies, including economic liberalisation, multi-party democratisation and decentralisation. This is the key reason the broadening of participation in the partnership emerged as a priority issue in the Cotonou negotiations. The CPA strongly emphasises the participation of non-state actors (NSAs) as a fundamental principle of cooperation (article 2). A multitude of actors are now legally given opportunities to participate as genuine development partners. While the CPA recognises the right of ACP states to determine their development strategies ‘in all sovereignty’, other development actors could be playing a complementary role. Participation is no longer limited to implementing projects designed by governments. The CPA stipulates that where appropriate, NSAs shall be:

- informed and involved in consultation on cooperation policies and strategies, on priorities for cooperation and on the political dialogue;
- provided with financial resources;
- involved in the implementation of cooperation projects and programmes in areas that concern them or where they have a comparative advantage;
- provided with capacity-building support to reinforce their capabilities, to establish effective consultation mechanisms and to promote strategic alliances.

NSAs are promised greater access to funds available under the national indicative programmes (NIPs) and regional indicative programmes (RIPs), and they have a voice in determining how EU funds, made available to each ACP country and region, should be used. This means that NSAs are associated with the ‘programming’ dialogue that is the process of consultation between the EU and ACP govern-

ments, in which the allocation of resources (as well as the priority sectors for support, the type of assistance to be provided and the most appropriate agencies for implementation) is planned. By getting involved in programming, NSAs have an opportunity to influence policies and cooperation strategies.

The CPA also defines the categories of non-state actors. They include the private sector, economic and social partners (including trade unions) and civil society in all its forms (art. 6). The CPA does not restrict 'civil society' to NGOs. Instead, a broader, more inclusive concept is used, encompassing many different categories, such as grassroots organisations, farmers' organisations, the media, etc. In addition, while local governments are not formally considered to be 'non-state actors', the text and the spirit of the CPA recognise that they are a new actor in the partnership, with a specific role and added value. This certainly applies in ACP countries, where a policy of decentralisation is being followed and where local governments are a distinct and representative sphere of government.

All these major innovations in the text of the CPA have raised high expectations in the world of NSAs in both the EU and the ACP countries. However, in practice, strengthening participation and the involvement of NSAs is a very complex and challenging undertaking, with a strong political connotation. In spite of promising changes, there is still a long way to go before participation of NSAs and local governments is properly mainstreamed in an effective and sustainable way.

2.2 Guiding questions

The following key questions provided guidance for the debate on NSAs under the CPA:

- What are the main priorities for improving the quality of participatory processes involving NSAs and local governments?
- How can the role of NSAs and local governments in promoting governance be strengthened?
- How can the effectiveness of capacity-support strategies for NSAs and local governments be enhanced?
- How can ACP-EC cooperation better promote 'multi-actor partnerships' (with due respect for the legitimate division of roles and respective comparative

advantages of all actors involved)? What are the implications for EC delegations and national authorising officers (NAOs).

- What roles should NSAs and local governments play in the new architecture of international aid, based on the Paris agenda and budget-support modalities?

2.3 Progress so far

Since the start of the CPA in 2000, progress in extending the partnership to NSAs has been realised in most ACP countries.

- **The CPA has been a key promoter of participation.** The CPA, in combination with other policy processes, such as the poverty-reduction strategy papers, has significantly contributed to opening up political space for NSAs. Democratic and participatory trends have been reinforced and barriers against the involvement of NSAs in rather closed political systems have slowly been removed or reduced. Experience suggests that in most ACP countries the CPA has been a vehicle to encourage the official parties to involve NSAs in dialogue and programming processes and in the implementation of the CPA.
- **NSAs are building capacities to participate in the CPA.** In several ACP countries, a vibrant civil society has gradually discovered the potential (but also the subsequent complexity) of ACP-EU cooperation. They have come to realise that there is still a lot of homework awaiting them in terms of institutional development if they want to be credible partners in the cooperation process. The official parties, as well, have made laudable efforts to clarify the opportunities for NSA participation (e.g., a users' guide for NSAs by the ACP Secretariat).

2.4 Constraints

In spite of the progress with NSA participation realised in recent years, several bottlenecks still need to be addressed:

- **Mixed record in terms of the quality of participation.** Assessments made by the EC, suggesting that in a majority of ACP countries participation is well on track, do not seem to be widely supported by the NSAs themselves. NSAs tend to be critical of the overall quality of participation, institutional mechanisms

for dialogue, access to funding and the complexities of EC procedures. There is also frustration about the lack of direct access to funding, which was clearly one of the highest priorities of civil society at the start of the CPA. Clearly, the CPA's promising text on participation has not yet been followed by a change of mindset in actual practice. It will take time to shift from a single-actor approach to multi-actor partnerships. Furthermore, the political and institutional conditions for effective participation of NSAs are not always in place at the country and regional level. NSAs are often part of the problem, as, in many ACP countries, they tend to suffer severe weaknesses, including fragmentation, competition, lack of solid representative structures, and governance problems.

- **Complexity and confusion: who is who in civil society?** Experience has also confirmed the complexity of involving NSAs, which tend to be a very diversified group of actors, with different motives and development objectives. This tends to complicate not only the identification of NSAs as change agents but also the consistent application of eligibility criteria for participation in dialogues or access to funding. Not surprisingly, there is still major confusion among NSAs about 'who should do what', compounded by territorial fights and competition for funding.
- **Instrumental approaches towards NSA participation.** Engaging with NSAs has been rushed, and EC and ACP officials have not always understood the roles of NSAs in development and the potential value they can add. This is the case, for instance, when NSAs are 'handpicked' to participate in a dialogue without clear criteria and transparent procedures. Far too often this leads to artificial consultations where NSAs are (mis)used as instruments to validate EU and ACP policies. It also happens when pressure is exerted on NSAs to unite in a single umbrella organisation in order to facilitate collaboration with official bodies. These interventions have a rationale from the perspective of short-term programme efficiency. Yet they are likely to be counterproductive in the medium term because they tend to neglect the natural diversity of civil society, as well as creating fake consultation processes and umbrella organisations. In too many cases, civil support has been delivered in a vacuum, as a self-standing action, isolated from mainstream development processes. Disbursement pressures along with a lack of information and transparency are also seen as major hindrances to participation. These factors clearly undermine official EC and ACP credibility in regard to carrying out real participatory approaches.

2.5 *The way forward: implementation challenges*

- Adopting a governance approach to participation
- Improving the quality of participation
- Investing in capacity building of NSAs and raising awareness
- Fostering EC capacity to adopt strategic approaches to participation
- Adapting the roles of Northern actors
- Developing the capacity to learn
- Taking risks

The implementation of NSA provisions in the CPA could be enhanced through the following actions:

- **Adopting a governance approach to participation.** Experience suggests that clarity of purpose is essential in dealing with NSAs. Why do official parties want to work with NSAs and local governments? Why do NSAs want to play a role in ACP-EU relations? What is the ultimate goal of the support provided? The challenge is to move beyond instrumental approaches and participation as an obligatory exercise by adopting a perspective of societal transformation. This means recognising that participation is all about empowerment, about building social capital for the proper use of the new democratic spaces, as well as demanding rights. It implies adopting a governance approach when promoting participation, which recognises the legitimate roles to be played by central and local governments. This challenge is particularly visible at local levels, where, instead of promoting collaboration, donor funding may exacerbate competition between civil organisations and (elected) local governments.
- **Improving the quality of participation.** Experience suggests that the quality,

effectiveness and sustainability of programmes to support civil society largely depend on proper articulation with national reform processes (e.g., decentralisation, good governance, public-sector reform), with the activities of key institutions (such as political bodies, sector ministries) or with donor initiatives. The experience of the PASOC (Programme d'Appui à la Société Civile) in Mauritania was given at the seminar as a good example of the EC wanting a process approach and being truly determined to give a role to civil society rather than considering it as a mere funding instrument or budget line. Factors that have contributed to success include light political pressure, involvement of an external facilitator and real ownership of the process by civil society itself.

- **Investing in capacity building of NSAs and raising awareness.** In many countries, NSAs are not yet aware of the CPA or of the important role they have to play in its successful implementation. It will require a lot of time to raise awareness and to reach out to the grassroots level. Northern NSAs could play an important role in this endeavour. Genuine participation is also hampered by the shortage of capacity to participate in an effective way. Civil society in ACP countries should invest in improving internal governance systems, self-structuring, and developing complementarity between different categories of NSA actors.
- **Fostering EC capacity to adopt strategic approaches to participation.** More investments should be made in strengthening the capacity of EC delegations in facilitating and managing NSA participation. Rather than adopting a technocratic or instrumental approach to NSA participation, EC delegations should invest more in mainstreaming participation in all ACP-EU policies, programmes and projects. By providing strategic support to NSAs and local governments, their role as change agents could be reinforced. For this to happen, however, there is a need for improvements in the quality and quantity of EC staff, a review of the European Development Fund's (EDF) current procedural framework (for both EC staff and NSAs wanting to interact with the EC) and a reduction of disbursement pressure.
- **Adapting the roles of Northern actors.** The CPA and Paris Declaration reflect the shift towards alignment and harmonisation, decentralisation of decision-making and new mechanisms for aid delivery (e.g., sector-wide approaches, budget support). The new aid paradigm calls for a redefinition of the specific

role played by European development actors, including NGOs and local government associations, in an increasingly complex, politicised, multi-actor, decentralised cooperation system. It will be a major challenge to implement this new 'Paris' approach properly through both geographic and thematic instruments.

- **Developing the capacity to learn.** While the CPA has enormous potential to broaden NSA participation, there is hardly any internalisation or dissemination of lessons learnt. Much more investment could be made (by the EC, ACP and NSAs) in strengthening the capacity to learn and to capitalise on experience. Lessons learnt should not only permeate EC delegations but should also reach EC headquarters and the offices of national authorising officers, and they should be properly internalised by decision-makers in their day-to-day work.
- **Taking risks.** Supporting NSAs in most countries tends to be a highly sensitive political exercise, with serious risks involved. This requires courage and flexibility, supported by knowledge of the overall policy context, which is sometimes difficult to ensure within a bureaucratic institution such as the EC.

3 A new framework of reciprocal trade relations

3.1 Context

The Lomé Conventions (1975-2000) were the most ambitious North-South trade agreements to date, covering non-reciprocal trade preferences, mechanisms to stabilise export prices, as well as commodity protocols for bananas, rum, sugar, beef and veal. These were considered to be measures conducive to development in the ACP. However, the Lomé trade regime did not achieve its expected results. Despite preferential access to EU markets for most products (reaching 90% in 1999), the ACP share in European imports dwindled from nearly 8% in 1975 to 2.8% in 2000. The mechanisms for stabilising export prices and the commodity protocols did not promote export diversification in the ACP. Half of all ACP exports to the EU are still concentrated in just eight products. Perhaps the most striking thing is that non-ACP developing countries that did not benefit from the Lomé trade preferences have been outperforming the ACP countries in exports to the EU.

In addition to the disappointing results of the trade regime, tensions have also been growing between the preferences and the rules of the World Trade Organisation (WTO).

In this context, the EU and the ACP agreed in the CPA to make profound changes in the trade regime by negotiating WTO-compatible economic partnership agreements (EPAs). These EPAs, which should enter into force as of the 1st of January 2008, are based on a number of key principles, including development and poverty eradication, reciprocity, regionalism and special and differential treatment. It is assumed that EPAs will foster economic growth and development, as well as ACP integration into the world economy, mainly through trade liberalisation and the creation of the right policy framework to attract investment. By building on regional integration processes in the ACP, EPAs should also contribute to the establishment of effective regional markets in the ACP.

In 2000, EU and ACP parties agreed that the existing non-reciprocal Lomé trade

preferences would only be temporarily extended to the end of 2007, by which time the EPA negotiations should be concluded. From 2008 onwards, EPAs would replace them. In principle, the 39 least-developed countries (LDCs) in the ACP are also entitled to duty-and-quota-free market access to the EU, which is part of the everything-but-arms (EBA) regime. For ACP countries that do not sign an EPA, an alternative WTO-compatible regime would have to be found, but only for non-LDCs (as ACP LDCs have the EBA to fall back on).

3.2 Guiding questions

The discussion on EPAs focused on the following questions:

- How can EPAs become instruments for development and poverty alleviation? What is needed in terms of trade regulations, accompanying measures and development support?
- What are the most urgent priorities in the ACP, in terms of capacity and institutional development, to reap the benefits of EPAs or new trade regimes?
- To what extent can key stakeholders (e.g., the private sector, farmers, NGOs) be more involved in the EPA negotiating process?
- How can continuous monitoring of EPAs be ensured in both the negotiating and implementation process (e.g., development benchmark approach)?
- What is the link between multilateral aid for trade and development-related financing for EPA implementation? Where should priorities in the use of aid for trade be placed? How can EU/EDF mechanisms, instruments and procedures for effective, efficient and timely delivery of aid for trade to the ACP be improved?

3.3 Progress so far

- **Increased awareness and analysis of regional integration in the ACP.** EPAs are clearly a controversial issue. While serious scepticism has been expressed over the ownership, pace and sequencing of the EPA negotiating process, some ACP actors recognise that the EPA negotiating process may have been a push factor for more cross-border dialogue and analysis of national and regional interests as well as economic reforms in the various ACP countries and sub-regions.

- **Promotion of regional coherence.** Existing regional organisations might have been challenged through the EPA process to regroup and reposition themselves. At least in West Africa, this might have encouraged more convergence between ECOWAS and UMEOA. But also in other regions, the pressure of the EPA negotiating process could have provoked reflection on the issue of overlapping memberships.

3.4 Constraints

In general, EPAs seem to have created major concerns among the EC/EU and the six ACP sub-regions:

- **How development friendly are EPAs?** ACP countries fear that EPAs are poorly integrated in the development agenda, in spite of several official EC declarations that state the opposite. While most ACP states would agree with the EU on the development opportunities entailed in an EPA, they tend to consider trade liberalisation and regional integration as necessary, yet far from sufficient, conditions to promote development and alleviate poverty. The creation of a free-trade area between countries with very different levels of development would disrupt local production and government revenues, and create unemployment, ultimately increasing poverty rather than reducing it. The opening up of ACP markets to competition from more competitive (and, for agricultural products, often subsidised) imports from European enterprises could result in local producers losing their share in domestic and regional markets. In other words, creating large, open, regional markets and increasing export opportunities for the ACP are only factors of potential development. To make this work in practice, bold steps need to be taken, including adequate policies, institutions and resources to adjust the necessary economic transformation and to produce and market goods competitively.
- **Different perceptions on approach and sequencing.** While both parties seem to agree that EPAs should, above all, be about development, there are major differences of opinion between EU member states and the EC on the approach and timing to achieve these development objectives. The ACP Group wants to ensure that EPAs take into account the specific needs and vulnerabilities of ACP countries and regions. This means, among other things, that sensitive

products would be excluded from trade liberalisation in EPAs. In addition, there is a need for long-term accompanying and adjustment measures and major aid-support efforts to allow ACP countries to really benefit from EPAs.

- **Do EPAs undermine regional integration?** Both the ACP and the EU agree that the EPAs should help to reinforce regional integration in the ACP sub-regions. However, regional configurations for EPAs may complicate ongoing integration processes rather than fostering them. Several countries that belong to more than one regional economic community have had great difficulty identifying their political and economic interests and selecting the regional grouping with which they would like to conclude an EPA.

3.5 The way forward: implementation challenges

- Reinforce the development orientation of EPAs
- EPAs should respect the endogenous processes of regional integration
- Create credible monitoring mechanisms for implementing EPAs
- Invest in capacity building as a prerequisite for the success of EPAs
- Ensure effective delivery mechanisms
- Favour more active involvement of EU member states

The following proposals could provide better guarantees for a smooth and effective implementation of EPAs:

- **Reinforce the development orientation of EPAs.** Just as in the Lomé preferences, EPAs should provide the necessary stimuli for development. The ambition is to develop open, regionally integrated markets, conducive to economic activities, that effectively contribute to sustainable development and poverty allevia-

tion. Putting this into practice is not easily done. As prerequisites for effective implementation of a comprehensive development agenda, a strong political commitment among the ACP countries and regions to engage in far-reaching reforms would play a key role. There is also a need for major financial support (which should be ‘substantially more’ than what the 10th EDF is able to provide) to help restructure ACP economies, to tackle supply-side constraints and to address problems of adjustment and the loss of government revenue from import duties. Fears exist however, that little extra support beyond the EDF could be expected and that the EU commitments would be honoured by re-labelling existing aid commitments to trade and regional integration. Critics of EPAs stressed that any support package to accompany the EPA process should be consistent with the key principles of the Paris Declaration on Aid Effectiveness and tailored to the specific needs of each ACP country.

- **EPAs should respect the endogenous processes of regional integration.** The sovereignty and autonomy of each region in its own regional-integration process should be respected. This means that the time dimension should be taken into account and a careful sequencing between regional integration and the implementation of EPA commitments should be guaranteed. Flexibility and a clear willingness to adapt the implementation process of EPAs wherever and whenever needed are key factors for the success of EPAs.
- **Create credible monitoring mechanisms for implementing EPAs.** Clear provisions in the EPA legal text could help to ensure the compliance of both parties to agreed-upon commitments in implementing the provisions for both trade and development assistance. These monitoring mechanisms could also provide the necessary accountability to the general public: that EPAs will deliver on their development promises.
- **Invest in capacity building as a prerequisite for the success of EPAs.** This refers particularly to the human and institutional capacity that is essential to negotiating and implementing the trade agreements – to ensure that the ACP will reap the benefits from EPAs. ACP countries are currently engaged in several negotiations: (i) at the regional level, (ii) with the EU in the EPA negotiations and (iii) at a multilateral level in the WTO negotiations. Many of the issues related to market access and trade are actually discussed at all three levels. It seems obvious that outcomes at one level could have a profound impact on the negotiations at other levels. The technical discussions and negotiations

on key issues, such as EU norms and standards (sanitary and phyto-sanitary issues, labour conditions, etc.), in particular, are creating major headaches for ACP countries and regions. It is therefore essential to put in place (financial) programmes and institutions that can also help to adopt appropriate accompanying measures, address supply-side constraints and strengthen the competitiveness of ACP products. The Aid for Trade (AfT) initiative recognises developing countries' needs for (financial) assistance to enable them to take advantage of the potential benefits from liberalised trade and increased market access, and to facilitate their integration into multilateral trading systems. In this context, Europe has committed to providing € 2 billion of AfT support by 2010: € 1 billion from the Community (including trade-related EDF assistance) and € 1 billion from the EU member states. The challenge is for the ACP and the EU to adopt AfT strategies and commitments that match EPA ambitions.

- **Ensure effective delivery mechanisms.** Beyond the amounts of support, delivery mechanisms and procedures will need to be carefully designed to ensure the effective disbursement of funds. Indeed, given the operational weaknesses of the EDF (such as low levels of disbursement and delays caused by cumbersome procedures), one could question whether the EDF is the most appropriate instrument for effective, timely and efficient delivery of Aid for Trade resources. The European Parliament and the EU member states, together with other European and ACP stakeholders, should monitor this process closely. They can play a catalytic role in ensuring that appropriate additional resources and effective and timely delivery mechanisms are in place to accompany EPA implementation.
- **Favour more active involvement of EU member states.** While the EC (as embodied in DG Trade, accompanied by DG Development) should be firmly in the driver's seat in the EPA negotiations, EU member states also have an important responsibility in ensuring that the EU sticks to agreed-upon commitments in terms of the development orientation of EPAs and financial support packages to the ACP.

4 Rationalisation of instruments and management of performance-based aid

4.1 Context

The negotiation of the Cotonou Agreement, which coincided with the ambitious EC aid-reform programme (1999), introduced various innovations in the area of rationalisation of instruments and aid management. One of the major changes was the replacement of the Lomé aid-entitlement system by allocations based on a combination of needs and performance criteria. Moreover, the CPA introduced a system of 'rolling' programming in which progress in the implementation of the national indicative plans (NIPs) is systematically reviewed through annual, mid-term and end-of-term reviews. The rationale behind this change in aid management was to adopt a more flexible and strategic approach to cooperation that allows checking progress and making adaptations when and where needed in the five-year programming cycle. In cases of 'poor performance' by ACP countries, programmes can be adjusted and the ACP government can lose part of the resources involved. These amounts may then be redirected to better-performing ACP countries.

Another innovation in NIP programming was the focus on a limited number of key sectors. This measure was intended to foster a more strategic approach by targeting aid better and by making more effective use of limited human resources on both sides. Last but not least, management of aid was also supposed to benefit from the devolution of EDF management responsibilities to the EC delegations.

4.2 Guiding questions

- Have the CPA innovations, in terms of aid management (performance allocations, rationalisation of instruments, rolling programming, etc.), contributed to more effective and efficient EDF development programmes? What innovations have been working best in the field? What are the major weaknesses of the current system?
- To what extent does the new system also focus on aspects related to EU performance? To what extent have programming and review processes been

- ‘joint’ EU-ACP exercises?
- What have been the results so far of the devolution of responsibilities to EC delegations in the field?
 - What steps need to be taken to better adapt EDF procedures to the strategic objectives pursued by the EC (e.g., stated objectives of supporting complex political and institutional reform, alignment and harmonisation, etc.)?
 - How can the risk of putting too much management control in European hands, and thus affecting ACP ownership (e.g., new EDF facilities: water, energy, infrastructure, etc.), be avoided?
 - To what extent have ACP capacities been sufficient to cope with the increasingly complex and demanding requirements in terms of EDF management? How have NAOs adapted to the new system?

4.3 Progress achieved so far

It is probably too early to assess whether all the EDF management changes in the CPA have had an effect on the improvement of ACP-EU cooperation and ACP ownership of cooperation. After only seven years, it is hard to disentangle the changes brought about by the CPA itself and those that stem from the Commission’s Reform of EC External Assistance (1999). Clearly, the two processes have been complementary and the rationalisation and more ‘professional’ approach in aid management that the CPA introduced were only possible because of the global EC aid reform. The changes were also in line with the renewed strong emphasis on aid effectiveness and performance that later resulted in the Paris Declaration (2005).

Perceived positive changes in aid management arising from the CPA include the following:

- **Restoration of confidence.** Clearly, the combined effect of the changes in the EDF has been partial restoration of the credibility and legitimacy of EC aid. The longstanding problem of large amounts of unspent EDF funds has also been tackled.
- **Innovations in programming.** The more focused and holistic approach to programming has provided a better understanding of the connections between different sectors. Through such an approach, several aspects of cooperation

(politics, economy, trade, environment, etc.) have become better integrated, to the benefit of the ACP countries.

- **Sectoral focus.** Overall, this is perceived to be a positive development in fostering greater critical mass and making more effective use of limited human resources on both sides. However, the limitation to two sectors has also caused ‘irritation’ in some ACP countries because of its rigidity and the exclusion of other important sectors.
- **Joint strategic approaches.** In the past, the EC formulated its support strategies unilaterally. Sharing the country support strategies (CSS) and regional support strategies (RSS) with the ACP country has been a positive move towards encouraging transparency and ownership. A flexible and regular review mechanism makes continuous updating of the CSS possible, along with matching the volume of resources and the indicative programme to developments in performance and need. However, while the idea is perceived to be good on paper, the reality is that it is difficult to find the time for this time-consuming exercise.
- **A more strategic role for the national authorising officer (NAO).** Another important shift is the change in the role of NAOs. In addition to the predominantly financial and technical management of EDF resources under successive Lomé Conventions, NAOs now also tend to play a central role in the strategic management that the new programming and review system implies. NAOs are supposed to gradually become coordinators of EC support while moving away from the nitty-gritty of financial procedures and hands-on implementation of programmes.
- **Increased harmonisation.** The possibility that the EC could also co-finance operations in sectors where other donors have the overall responsibility for policy dialogue and implementation has also been a positive change. It allows for more efficient use of resources available for a country or region, in line with the 2005 Paris Declaration on Aid Effectiveness.
- **More intense consultation with non-state actors (NSAs).** Consultation in the programming process with the private sector and the NSAs has been enhanced. While this is perceived to be a positive development, questions have also been raised over the real impact of these new actors on the final outcome and on the sometimes very time-consuming consultation process.

4.4 Constraints

In spite of the changes in aid management mentioned above, several bottlenecks have been identified:

- **Generalised lack of ACP ownership of the aid-management process.** The degree to which the changes in aid management have really contributed to building ownership of the process (as well as a more strategic approach to ACP-EU cooperation on the rolling programming and performance-based system) is questionable. In practice, programming still seems to be ‘something the EC needs to do’, since Commission delegations understandably have to justify expenditures on development aid. Too often ACP counterparts have limited or no involvement in the new aid management, which is perceived as too complex and EC driven. This feeling is compounded by the new trend of creating EDF-funded facilities (e.g., ACP governance initiatives, the ACP-EU Water Facility, ACP-EU Energy Facility, etc.), which tend to add to the complexity and to place more management control in European hands. The lack of involvement seems inevitable, given the imbalances in resources and the consequent unequal power relationships between the EC/EU ‘donors’ and ACP ‘recipients’.
- **Increasing complexity of the programming process.** The programming and review processes have not been as ‘joint’ or ‘mutual’ as many would have hoped at the start of the CPA. In the pursuit of higher quality standards for aid, the programming has become increasingly rigid and demanding, putting a heavy strain on ACP capacity.
- **Cumbersome procedures.** Reducing the number of instruments in the EDF might have simplified things, but EDF procedures are still proving too cumbersome, leading to slow disbursement.
- **‘The piper calls the tune’:** There is a fair amount of suspicion among ACP interlocutors that the criteria for resource allocation and evaluation of performance are not necessarily applied in a transparent and fair way.
- **Capacity problems.** Many of the offices of NAOs and RAOs and their line ministries lack the capacity and resources to engage fully in the various programming, review, project-development or monitoring and evaluation exercises. There is a perception that even if NAO/RAO offices were to take more ownership of these processes, the EC would most likely rewrite, amend or even reject

a lot of the content in line with EC agendas. Also, the question of the use of long-term technical assistance can be raised. On the one hand, it ensures that EDF procedures are strictly followed and that the quality of the programming documents meets established EC criteria and requirements, but on the other hand, it can seriously erode ownership. Technical assistance offers no short-term gap-filling solutions. Building institutional capacity and ownership requires time and flexibility that the current system does not allow for.

4.5 The way forward: implementation challenges

- Putting the ACP country in the driver's seat
- Addressing human-resources constraints
- Further alignment and harmonisation
- Tackling the bureaucracy of aid

The management of aid in the CPA could be enhanced through the following actions:

- **Putting the ACP country in the driver's seat.** As mentioned before, CPA-based changes in EDF management show a mixed result, with some improvements but also major setbacks. ACP ownership of the development-cooperation process is probably the greatest victim, and in this respect, there is still much work to be done to adjust ACP-EU practice to the precepts of the Paris Declaration. As the EU seeks to implement the Paris agenda and move towards greater ownership and alignment with ACP country policies and procedures, the issue of ownership needs to be given more attention. In addition, the role of the NAO is no longer adapted to the new requirements of a harmonised, aligned aid system. In line with the recommendations of the recent DAC Peer Review of EC aid, the time may have come for a fundamental review of the system of NAOs in the management of EDF assistance. This longstanding system could be replaced by single government offices that coordinate all donor funding, using national

procedures and cooperating closely with the appropriate line ministries that run national-development programmes to which donor funds are contributed. As direct budget support or sector-wide programme support become more common, this is also likely to become the way forward.

- **Addressing human-resources constraints.** As the partnership and management of cooperation have become more participatory and sophisticated, there have been more demands on human resources and competencies. This problem should be addressed on both the EC and ACP sides by respectively strengthening the capacity of EC delegations and the public sector in the ACP.
- **Further alignment and harmonisation.** Another important challenge is to align aid further, in line with the Paris Declaration on Aid Effectiveness. There has been some progress with the contribution agreements by making increased use of the systems and procedures in recipient countries. More joint programming among the EC, EU member states and other donors would also be an important step forward.
- **Tackling the bureaucracy of aid.** Another challenge is that the ACP side often perceives the bureaucratic requirements for engaging with and benefiting from EDF resources as too excessive, given the limited human resources available in the central administration. There has increasingly been a tendency not to allocate time to preparing for EDF projects because that time could be better spent working with other, more flexible donors. It would help if the EC would adopt a more participatory approach to programming, which would put the ownership of development firmly in the hands of the ACP.

5 Where to go from here?

The shift from Lomé to Cotonou was more than a change of names. It was the intention of the new partnership agreement to mark a clear break with the past and to modernise the overall approach to ACP-EU cooperation. Stakeholders in both the EU and the ACP recognise the great potential of the CPA in providing an ambitious and comprehensive framework for new forms of international relations.

However, after several years, there are still major deficits in implementation, and several critical questions remain: Has the increasing politicisation of ACP-EU relations contributed to better development? Have new emerging issues, such as security and migration, been effectively included? Will poor and vulnerable countries reap the benefits of trade liberalisation? What has been the quality of the participatory process? Has it really made a difference? Has the increasing emphasis on performance-based aid management enhanced the impact of aid? Last but not least, has the CPA been able to increase ownership and bring about greater equality in the partnership between the EU and the ACP?

Strong believers in the CPA would argue that it is just a matter of implementation and that these major challenges can be effectively addressed between now and 2020. However, others argue that time, alone, will not bring the solution. The problems with implementation may be symptoms of a much more fundamental questioning of the relevance of the CPA and current asymmetrical ACP-EU relations.

Chapter III: Continuing relevance of Cotonou in a changing world?



The analysis in part I focused mainly on the record of the CPA so far, and on ways to improve its implementation. However, beyond the challenges of making the CPA a more effective framework for ACP-EU cooperation, other more fundamental questions have emerged. There seems to be an urgent need to look at the future and to re-assess the role of the CPA in a rapidly changing policy environment at global, EU and ACP levels.

The enlargement of the EU with 12 new Member States from Central and Eastern Europe in May 2004 and January 2007, respectively, has shifted the EU's strategic interests to its immediate neighbours in the East and the Mediterranean. In addition, the negotiations for economic partnership agreements with six separate ACP sub-regions have put increasing pressure on the cohesion of the ACP Group. New actors, such as the African Union, entered the scene at the beginning of the new millennium as privileged partners of the EU. There is also a growing trend towards regional differentiation, reflected in the formulation of specific EU support strategies for Africa, the Caribbean and the Pacific. Last but not least, there appear to be fears within the ACP that the partnership is further affected by growing difficulties internal to the ACP as it tries to project itself as a Group. This is even further compounded by the increasingly divergent economic and political interests among ACP countries, which was not the case at the start of ACP-EU relations in 1975.

In this context of rapid global change, some fundamental questions that will determine the future of the CPA and ACP-EU relations need to be addressed:

- How can the CPA remain politically relevant in today's world, adjust to rapid changes and new global political realities, and become a stronger framework for international cooperation?
- What is needed to ensure that both the ACP and the EU continue to attach the same importance to the partnership as in the past? Will ACP leadership at pan-African, regional and national levels continue to give more than lip service to the CPA as a flagship of ACP-EU relations? What is needed to ensure that security issues, EPAs and regional differentiation do not tear the ACP Group apart?
- How can the CPA complement and mutually reinforce the new partnerships that the EU is building with specific geographic regions (Africa, the Caribbean

and the Pacific, the European neighbourhood, etc.)?

- How can the ACP Group and the African Union better cooperate and complement each other?

The multi-stakeholder seminar, organised by ECDPM, was a first attempt to organise an open and frank discussion on these questions, which is just the beginning of what could become an interesting and hopefully fruitful debate. On the basis of the various views expressed at the seminar, we have tried to extrapolate three possible scenarios for the future. Obviously, these will require more in-depth analysis to substantiate and test the strengths and weaknesses of each of the various future perspectives that have been put on the table.

Continuing relevance of Cotonou in a changing world?

Scenario 1: Cotonou is relevant but some ‘mini-engineering’ might be needed to make it work better

Scenario 2: Cotonou and ACP-EU cooperation have no future and have become irrelevant in a changing world

Scenario 3: Cotonou still has potential, but fundamental adjustments are needed to confront new realities

Scenario 1: Cotonou is relevant but some ‘mini-engineering’ might be needed to make it work better

The CPA has a solid historic foundation based on common interests and should continue to guide ACP-EU relations. This scenario starts from the assumption that the CPA is still politically relevant for Sub-Sahara Africa, the Caribbean and the Pacific. The three regions joining together reinforce their bargaining power vis-à-vis other regional blocs. As the ‘biggest development grouping in the world’, comprising the largest number of least-developed countries and large groups of land-locked countries, small islands, and vulnerable countries, the ACP is the legitimate body to defend the interests of these countries on the multilateral scene and in relationships with the EU. Defenders of the CPA and the ACP cause argue that

ACP solidarity is still going strong. One of the more successful examples of the effectiveness of the ACP Group was the 4th WTO Ministerial meeting in Doha in 2001, where the ACP was able to obtain a waiver until 2008, exempting the current EU preferential trade provisions for ACP countries from legal challenge under WTO rules. A typical example is the Caribbean region which prefers to align with Africa instead of Latin America as it would hardly have an opportunity to manifest its specificity within a Latin American Group.

The large diversity among the Group of 79 ACP countries should be seen as a strength in the partnership rather than as an obstacle. Cotonou defenders argue that, aside from the CPA, there is no North-South cooperation framework that has such a sophisticated and stable contractual joint institutional framework for dialogue on political, economic and development issues. New emerging continental (such as the African Union) and regional groupings of developing countries do not have a similar tradition or mechanism for dialogue with the EU, nor do they represent such a large group of countries with whom the EU can negotiate, programme and co-manage important development programmes.

Another area where it is argued that the CPA brings added value and still has potential is the framework for increased aid effectiveness. The CPA still provides a model for partnership, good governance, alignment and harmonisation, as well as policy coherence for development, coordination and complementarity. It has the potential to strengthen local and national ownership and multi-stakeholder participation in development. Last but not least, the CPA is also seen to have concrete mechanisms for learning from experience through the comprehensive programming, mid-term review and end-of-term processes. Obviously, even in the eyes of the fiercest defenders of the CPA, all is not perfect; implementation modalities can be refined and bureaucracy reduced, but the fundamentals of the CPA should be preserved at any price.

Scenario 2: Cotonou and ACP-EU cooperation have no future and have become irrelevant in a changing world

In this scenario the longstanding ACP-EU framework has reached its limits and is no longer effective in confronting the major and increasingly complex global challenges and changing conditions in the EU. When ACP-EU relations started with the Lomé Conventions in 1975, the world was roughly organised along a North-South axis. During the first years of the 21st century, a more complex and more diffuse multi-polar world has emerged. There are new emerging powers in development (such as China, India and Brazil) with increasing interests in Africa and the ACP. The ACP Group has become increasingly fragmented, and it is striking that in more than 30 years of existence, there has been little intra-ACP cooperation. The cohesion of the ACP Group risks being further threatened by the adoption of EPAs. A regrouping and repositioning of geographic regions and (sub) regional organisations is taking place in all parts of the ACP. One of the strongest examples is the creation of the African Union in 2002, uniting the whole of Africa (including non-ACP North Africa) in an alliance for political, economic, social and cultural cooperation unprecedented within the African continent. Clearly, the CPA does not respond to the African wish to treat Africa as one.

Similar changes have become apparent in the EU, which, through its various regional strategies, seeks to separately differentiate its partnerships with the African, Caribbean and Pacific countries and with the various regional economic communities in the ACP. These rapidly emerging trends challenge the longstanding ACP-EU partnership and the ACP Group as a whole. Critics argue that the ACP Group has major difficulties positioning itself and being pro-active. At the same time, the ACP Group seems to be undergoing changes that reinforce the perception that it is as an artificial construction that only can survive with the blessing of the EU. Outside its historical relationship with the EU, the ACP has been quite invisible in the rest of the world. A clear sign of this is that there is no real interest by other world powers to maintain a special relationship with the ACP countries as a group. China and Latin America prefer to build special partnerships with Africa through the regional economic communities and the African Union but not with the ACP. But neither does the EU (as longstanding defender and ally of the ACP) appear to attach the same importance to the partnership as it did in the past. The growing

importance of regional groupings, particularly the African Union, has provided the EU with interlocutors with whom the EU can engage in a region-to-region political dialogue in a way that the ACP Group could not do. The various unique features of the CPA are gradually being taken over in new regional strategies and arrangements (e.g., Joint EU-Africa Strategy, EPAs, etc.). In addition, the EDF, with its specific characteristics (member-state contributions, joint management, etc.), has come under increasing pressure in recent years. The EC seems to increasingly use EDF resources for a variety of programmes and facilities (health, water, energy, Africa Peace Facility, etc.), often abandoning joint-management principles and, in effect, eroding the partnership with the ACP.

Critics of the CPA argue that these trends are irreversible and that it does not make sense to continue to defend the CPA at any price. The efforts of the ACP Group to turn the tide and to adjust will be meaningless because the ‘tsunami’ of rapidly changing international interests and relationships cannot be stopped. In addition, critics argue that all this will be further compounded by the ACP Group’s lack of response capacity and that of its institutions. The poor leadership and lack of internal dynamics of the ACP Group and its Secretariat, as well as the slow ACP decision-making mechanisms and limited capacity in terms of human and financial resources further broaden the credibility gap.

Scenario 3: Cotonou still has potential, but fundamental adjustments are needed to confront new realities

In this scenario, it is recognised that it is necessary for the CPA to be adapted in major ways because the international context has changed dramatically in recent years. Increasing pressure on the CPA can be an incentive to mobilise all troops in the ACP and the EU for a profound and fundamental reflection on the future of EU-ACP relations.

This scenario starts from the assumption that several of the underlying principles and instruments of the CPA are still relevant for development. However, the main concerns seem to be about the CPA’s survival, in isolation from the fundamental processes of change that are taking place in the new international context. Significant adjustments are needed to ensure that the CPA still has a legitimate

role to play in ACP-EU relations now and beyond 2020:

- **Ensure continuing relevance by showing more and better results.** The innovations of the CPA are still a source of inspiration for a modern and original approach to international cooperation: political dialogue, participatory approaches, programming, performance-based management, concrete mechanisms for learning through mid-term and end-of-term reviews, etc. The challenge will be to make sure that this original framework also works in practice and that it can promote positive change in terms of development.
- **Re-energise CPA institutions for political dialogue.** On paper, the unique joint institutional framework of the CPA (Joint Council, Joint Committee of Ambassadors, Joint Parliamentary Assembly, etc.) provides ACP-EU relations with a comparative advantage over new configurations and emerging regional groupings, which cannot rely on such sophisticated frameworks. However, in order to increase the political relevance of the CPA, some changes should be considered, including (i) strengthening the ACP-EU dialogue and extending it to other important issues beyond aid and trade by giving greater weight to issues, such as security, migration, governance, mutual accountability and policy coherence, (ii) making the substance of the dialogue more political and less technical by providing a lead role to the ACP ministers of foreign affairs (rather than the ministers of planning and finance – the NAOs – who mostly operate as aid managers in the discussions on CPA-related matters), (iii) ensuring the effectiveness of the dialogue by seriously reconsidering the format, which now comprises some 105 countries, (iv) entrusting the ACP Secretariat with a stronger leadership role with more autonomy to give to the group and the CPA greater relevance in light of the emerging initiatives at the pan-African and regional levels.
- **Apply principles of subsidiarity.** The diversity of the ACP Group should be seen as a force in the partnership, not as an obstacle. Flexibility, country differentiation and variable geometry can continue to exist as long as there remains clear value-added and a shared role to be played by ACP institutions. This would mean that the ACP Group acts either as a kind of binding force among the different regions or as a facilitating agency that links up the various interests and component parts of the ACP through the exchange of information, analysis and expertise. To make this happen, common ACP interests need to be

redefined and ACP institutions will need to give proof of trust, leadership and capacity.

- **Complement the Paris Declaration as a solid basis for increased aid effectiveness.** The underlying principles of the CPA provide a good foundation for enhanced aid effectiveness by promoting good governance, strengthening local and national ownership, and programming multi-stakeholder development in the ACP, as well as harmonisation and alignment with regional and country-owned development strategies and coherence of development policy. As such, it has the potential to be an important framework for strengthening partner-country governance, donor transparency and mutual accountability. Although the Paris Declaration is driving the debate on aid effectiveness, the CPA and Paris can mutually reinforce each other.
- **Give modern, practical content to the concept of contractuality and mutual accountability.** The CPA has the potential to play a role in defining what is involved in shifting from an unequal North-South, control-oriented partnership to mutual accountability. One of the ways to do this could be to exploit the CPA potential for policy coherence, by making a more informed and systematic use of article 12 on European policies affecting ACP development.
- **CPA will be what its members want to make it.** The potential added-value of the CPA in a multi-polar world with lots of conflicting forces will depend on the leadership of both the ACP and EU, and the ways in which they want to prioritise ACP-EU relations. It appears that the EU is moving quite fast in making up its mind as to where it wants to go with the ACP-EU partnership. ACP stakeholders are also engaging in a similar reflection at the level of ACP Ambassadors and the ACP Council. Possible revitalisation – or survival – of the CPA will therefore depend on the highest ACP political institutions and on a dynamic ACP Secretariat that is entrusted with a lead role in the implementation of the CPA. ACP leadership, therefore, is confronted with an urgent challenge to invest in developing a stronger ACP profile based on a division of tasks, added value and complementarity with other emerging initiatives.

Some final thoughts

These initial reflections clearly show that the CPA and the long-standing ACP-EU partnership face steep challenges in the coming years. With the centre of gravity of ACP-EU cooperation apparently shifting towards the African Union and

Regional Economic Communities (RECs), ACP-EU partners are confronted with the challenging task of rethinking and repositioning their relationship in a multipolar world. As a non-partisan and independent foundation specialising in ACP-EU relations, ECDPM remains committed to assisting the various interested parties in this process.

Annexes: analytical papers



a. Political Dimensions: Introductory Note

Jan Vanheukelom, James Mackie & Jean Bossuyt

The CPA placed much more emphasis on ‘politics’ than its predecessor. What have been the effects, and how has the political dimension in the CPA evolved?

1 The Political Dimension: A Ground-Breaking Innovation

The introduction of the *political dimensions* was heralded as one of the most important innovations of the Cotonou Agreement. The new Partnership was to have a strong political foundation that was to be sustained by an on-going political dialogue.

The successive Lomé Conventions had focused primarily on economic cooperation.¹ With Lomé IV, the EU had already started to introduce clauses on human rights, rule of law and democratic principles and these were incorporated again in Cotonou as the ‘*essential elements*’ which underpinned the partnership. But the ‘Political Dimension’, to which a whole section (Part 1 Title II)² was devoted early on in the text of the Agreement, went much further in defining the ‘rules of engagement’ on political dialogue more clearly, and extending the content of the dialogue. It sought to ensure that the relationship between the partners would evolve into a mature political relationship which was to be in effect the third pillar of the partnership: aid, trade and the political dimension. Among other things governance was also added as a new ‘fundamental element’ of the partnership.

At the outset, there was a degree of wariness in certain ACP quarters about this change. The ‘essential elements’ were perceived as restrictive and narrowly linked to the concern by the EU to suspend development cooperation in case of (perceived) violation of these ‘essential elements’. Yet at the same time the concept of true ACP-EU political partnership was appealing to all supporters of the traditions of ACP-EU cooperation. The EU for its part was also finding its feet in a new area. It was only a few years earlier with the Maastricht Treaty in 1992, that a foreign policy element, the CFSP, became an element of EU external action. It

1 For an overview of the history of ACP-EU relations see for instance: http://ec.europa.eu/development/body/cotonou/lome_history_en.htm

2 Cotonou Partnership Agreement, Title II - Political Dimension (Articles 8-13)

was logical therefore that with the negotiation of Cotonou in the late 1990s this element of a political relationship would be added to the Agreement but it was nevertheless relatively new ground for the EU just as much as for the ACP

2 The Dimensions of the Politics

Title II starts with outlining what the partners understood by *political dialogue*. But the section also covers various more specific topics. In addition to defining the *essential elements* and one *fundamental element* (governance), the section then goes to discuss questions of the coherence of Community policies and their effects on the ACP, migration and makes commitments on ‘*an active, comprehensive and integrated policy of peace-building, conflict prevention and resolution*’.

Article 8 is the key article which provides the foundation stone for the whole section. It establishes the principle of political dialogue and then discusses the form and potential content. The approach is open and transparent and emphasises the importance of promoting mutual understanding. It does of course indicate that the dialogue should also be used to prevent situations arising where either party seeks to evoke the non-execution clauses – **Article 96** and **Article 97** – which deal with ‘consultations’ that can lead to ‘appropriate measures,’ such as discontinuation of aid or other forms of sanctions, when the essential or fundamental elements of the agreement have been breached.³

Yet Article 8 also tries to allay ACP fears that for the EU the main purpose of political dialogue is as an ad hoc tool to sanction partners in cases of serious violations of the essential elements. It states that regular, comprehensive, balanced and ongoing dialogue should lead to ‘*commitments on both sides*’. The dialogue should be flexible and country specific, and be conducted at the appropriate levels. The article opens up the prospect of associating regional and sub-regional organisations as well as civil society actors to the dialogue. The content of political dialogue can range from ‘cooperation strategies’ to previously uncovered areas such as peace and security, the arms trade, asylum and migration, or governance. ECDPM, at the time, stressed that sanctions against ACP states in the past had not always been based on dialogue and transparent decision making:

3 Articles 96 and 97 are formally placed outside the Political Dimension in the Final Provisions of the CPA, but are closely associated with the political pillar of the agreement, given that they can only be invoked when the essential and fundamental elements spelt out in Article 9 of the agreement have been breached. Cf. Mackie James, & Julia Zinke, 2005, When Agreement Breaks Down: What Next? Discussion Paper Nr 64B, ECDPM, Maastricht

‘The emphasis that the Cotonou Agreement places on political dialogue should ensure that such sanctions are not enforced unexpectedly. In addition, the Cotonou Agreement maintains and strengthens the ‘consultation procedure’ introduced in Lome IV bis (...). It places more emphasis on the responsibility of the State concerned by focusing on the steps it takes to remedy the situation.’⁴

It is in fact only in the next article, **Article 9**, that the text really focuses in on and explains what is understood by the ‘essential’ and ‘fundamental’ elements of the partnership. The ‘essential elements’ include respect for human rights, democratic principles and the rule of law. The article also introduces and defines the concept of governance as a ‘fundamental element’.

Article 11 was entirely about the need and commitment to work in fragile or conflict affected partner countries. The article commits the signatories to an integrated policy of peace-building, conflict prevention and conflict resolution, and to the development of appropriate instruments and activities. The focus was rather on imaginative engagement (with a mix of adapted policies and instruments) than on disengagement from difficult partnerships.

Article 10 describes other elements which the parties consider important for the maintenance of a stable and democratic political environment (such as the principles of the market economy and the involvement of civil society and the private sector), while in **Article 12** the Community engages itself to consult with its partners on the coherence of its policies and their likely impact on ACP States. Finally, **Article 13** deals with an EU concern of a particular domestic political nature: migration and readmission policies. ACP states were more interested in migration related dimensions such as the protection of their nationals or the developmental potential (or negative effects) of certain migration policies.

Initially, ACP-partners were less convinced about certain aspects within the Political Dimension of the CPA. They expressed serious concerns over some of the new ‘rules of the game’ of the political dialogue, including the lack of clear guidance on (i) how and when political dialogue on (perceived) violations of essential elements would transit into Article 96 consultations, (ii) how and when such obligatory consultations would result in ‘appropriate actions’, and (iii) what such unilaterally defined actions would entail. It was also feared that Article 96 would be implemented inconsistently, allowing new forms of conditionality to creep in through the backdoor. On the dimensions of conflict and peace (Article 11), some partners and actors wondered whether the EU’s strategies and tools were sufficiently adapted to effectively realise its ambitious goals of peace building and conflict prevention or resolution in conflict affected countries. It was, moreover, argued that both effectiveness of aid and the credibility of the EU would increase with a more rigorous implementation of

4 ECDPM, 2001, Cotonou Infokit: Essential and Fundamental Elements, Fiche 20, Maastricht

good governance standards of aid and enhanced coherency.

Such ambitious commitments on the political dimension of the CPA were demanding on the EU. Was the EU equipped to task? Were the institutional incentives and the human capacities mobilised in such a way to transit from mainly administrative functions to an inherently political agenda?

3 Experience of the Past Five Years

3.1 *Political dialogue*

In many ways political dialogue is a natural component to the EU-ACP partnership which in practice had already started to build up quietly in many ACP countries well before Cotonou was signed. The coming of the CPA however brought the formal possibility of such dialogue out in the open and many expected more guidance. At an early stage (2003) some relatively loose guidelines were in fact drafted and adopted by the ACP and EU, but to a large extent the use of the article was left up to the initiative of actors on the ground.

It is difficult to get a full picture of how much Article 8 has in fact been used over the past 6 years, the form it has generally taken or indeed the scope it has had because there is no systematic public reporting on its use though some details started to emerge in the Mid-Term Review. Wolfram Vetter's paper for this same seminar session indicates some of the issues and practical questions that it threw up for EC Delegations and ACP governments. However one of the more systematic sources which looked into the use made of the article is from evaluations.

In particular the Thematic Evaluation on the EC Support to Governance in Third Countries⁵ provides some useful clues on the use of Article 8 in terms of promoting governance. With the EU expanding its policies and instruments in support of governance, this subject matter became more part of the EU/EC planning and programming, as well as in its political dialogue with ACP partners at different levels (national, regional and continental). Political dialogue gradually allows both parties to explore the type of actions and support that would support the governance agenda best. Yet the evaluation also indicates that further 'homework' is required at the level of the EC/EU to effectively integrate (an expanding) governance agenda in a systematic and coherent way into political dialogue processes without jeopardizing partnership principles.

5 "Thematic Evaluation of the EC Support to Good Governance", Final Report, June 2006, Evaluation done for the European Commission by Particip GmbH-ECDPM

The growing prominence of governance as a political priority in EC external action coincided with the growing domestic demand in ACP countries for improved governance. NEPAD⁶, with its African Peer Review Mechanism, offers a good example of this demand. Globally, there were other demands on partner countries and donors that would add a dimension to the policy and political dialogue. In the Paris Declaration on Aid Effectiveness (March 2005)⁷ both sides had committed themselves to improve the effectiveness of aid through strengthened mutual accountability. This commitment requires donors to enhance transparency on their alignment behind country owned development policies and harmonisation of development efforts.

The form and content of policy dialogue has also grown in other ways that were less expected. For instance political dialogue has progressed rapidly at the continental level and become a core element of the growing relationship between the AU and the EU. There has also been considerable dialogue at the sub-regional level between the EU and the regional economic communities (RECs). Again neither of these levels of dialogue is entirely new. They already existed before Cotonou but the speed with which they have grown and evolved in the past 6 years is remarkable and should at least partly be attributed to the recognition of the importance of political dialogue and very open framework that the CPA provided.

3.2 Essential elements and sanctions

Initially, ACP states feared that the political dialogue promised under Article 8 would function mainly as a prelude to the two so-called ‘*sanctions articles*’ 96 and 97 relating to the ‘non-execution’ of the essential and fundamental elements. However, the actual practice of political dialogue under Article 8 and a number of changes made during the first CPA Review gradually reduced ACP fears.

Political dialogue in the CPA has certainly proven to be most difficult in situations where the EU raised questions about the lack of respect for the ‘essential elements’. ACP countries expressed dissatisfaction with the modalities under which the EU moved from ongoing ‘political dialogue’ to one-off ‘consultations’ under 96 and 97.

However, while already in May 2003 an effort was made to agree on guidelines for political dialogue under Article 8, it was not until the Review of the CPA in 2005 that both sides of the partnership also agreed on more explicit and binding rules and regulations for Articles

6 NEPAD, the New Partnership for Africa’s Development, cf: NEPAD Framework Document, October 2001, <http://www.nepad.org/2005/files/documents/inbrief.pdf>

7 Paris High-Level Forum, March 2005, The Paris Declaration on Aid Effectiveness <http://www.aidharmonisation.org/>

96 and 96⁸. These sought to create more transparency and predictability in the decision making process about moving from the political dialogue to consultations under both articles. The partners agreed to an obligatory preparatory phase of ‘intensified dialogue’ under Article 8 before moving on to Article 96 consultations. The 2005 Review also led to a stronger involvement of other ACP countries in addition to the one at the centre of the debate as ‘friends’ or peers in the dialogue and consultation process.

This reliance on improving the quality of the political dialogue coincided with a growing realisation of the ineffectiveness of old style conditionalities⁹ and some of the EU’s less successful experiences with sanctions, such as Zimbabwe¹⁰. Later experiences with Ethiopia and Uganda – two of Africa’s donor darlings – illustrate the dilemmas facing donors who have engaged in new forms of partnership which favour predictability, and reliance on partner countries own systems and policies.¹¹

3.3 Governance

Initially, the Cotonou Agreement defined governance in a rather narrow, technocratic way, regarding it primarily as referring to the efficient and transparent management of resources by public institutions. Over time, however, the EC perspective on governance has evolved into a holistic, overarching concept, embracing broader state-civil society relations, human rights and democratization, the rule of law as well as public sector reform and decentralisation¹². In a few years time, it has moved to the top of the ACP-EU agenda.

This evolution should not come as a surprise. Over the past few years, consensus has been growing on the inextricable linkages between governance and crucial development objectives such as poverty reduction, economic growth, peace and security as well as sustainable development. Governance is also at the core of the new aid delivery modalities. The provision of budget support critically depends on a set of governance conditions in the partner country.

8 Annex VII on Political Dialogue as Regards Human Rights, Democratic Principles and the Rule of Law, which was added to the agreement upon its revision (completed in February 2005), added three articles, on the use of Article 96 consultations. Cf. Mackie & Zinke op cit.

9 International Monetary Fund, 2001, “Streamlining Structural Conditionality: Review of Initial Experience”, Washington

10 See also: Mackie, James and Zinke, Julia; “When Agreement Breaks Down, What Next? The Cotonou Agreement’s Article 96 Consultation Procedure”, Discussion Paper Nr 64A, August 2005, ECDPM, Maastricht, and www.ecdpm.org/Article96.

11 de Renzio, Paolo (February 2006), “the primacy of domestic politics and the dilemmas of aid: What can donors do in Ethiopia and Uganda?”, ODI Opinion, London

12 This is clearly reflected, for instance, in the EC Draft Handbook on Governance, 2004.

As governance moves center stage, a wide range of implementation challenges arise. First, who sets the governance agenda? Experience has demonstrated the limits of imposing exogenous models. Governance touches upon the fundamental rules of the game in a polity and society, so its agenda needs to be in the first place domestically driven. Yet governance is no longer a monopoly of central governments. It has become the concern of a variety of local actors (e.g. civil society, human rights organizations, private sector as well as local governments). The challenge will be to promote multi-actor dialogue processes in order to generate governance priorities that are shared by all stakeholders. This, in turn, puts a premium on 'connecting' the EU debates on governance with a proliferation of African-driven governance initiatives at various levels (AU, RECs, national and local level). Second, how can the EC equip itself to deliver effective governance support in a huge variety of country and regional contexts? At this stage, there is a clear tension between the rapid ascent of governance as a political priority and the overall institutional response capacity of the EC/EU. Third, how can 'governance' be promoted among donors? It is increasingly recognized that governance is not only an issue 'over there' in third countries, but a set of principles to be respected by donors as well in their dealing with the ACP.

The increased emphasis on governance in the ACP-EU partnership is clearly a response to a growing societal demand in ACP countries for better governance. It may prove to be a valuable opportunity for ACP-EU cooperation if the dialogue on governance can be turned into an instrument for renewing the partnership model -based on country ownership and mutual accountability- rather than another set of donor-imposed conditionalities

3.4 Peace building, conflict resolution and difficult partnerships

The years 2000 and 2001 were also a period when a lot of work was being done to improve the EU policy framework on peace building and conflict resolution. This policy debate culminated in the Goteborg Summit¹³ of June 2001 and the agreement on an *EU Programme for the Prevention of Violent Conflicts*. This built on the framework provided by Cotonou and indeed encouraged the Commission at the time to emphasise particularly the need for conflict prevention work at the sub-regional level in Africa through the programming of the RIPs under EDF¹⁴.

The Communication on Governance and Development (2003) further clarified the commitment to peace building and to stay engaged in 'difficult partnerships'. Although the political, strategic and operational challenges are considerable, the EC has demonstrated how it can

13 Presidency Conclusions, European Council, Goteborg 15-16 June 2001, SN/2001/01 REV1

14 Alexander L, Higazi H, Mackie J, Nino-Perez J & Sheriff A, 2003, Regional Approaches to Conflict Prevention in Africa, InBrief No.4, ECDPM, Maastricht

tap into the variety of instruments at its disposal, including political dialogue. In terms of promoting the security agenda, the EU has engaged in a limited number of national Security Sector Reform initiatives.

EC work in this area of peace and security also started to take a new turn with the use of EDF9 funds to fund several small regional peace-keeping operations through ECOWAS (Liberia, 2003 and Ivory Coast 2004) and the AU (Burundi, 2004). The concept behind this small start was then dramatically expanded with the agreement with the AU on the African Peace Facility.¹⁵ This was also funded from EDF9 with an initial amount of € 250 million later supplemented by a further € 50 million. Legally the Commission has no competence to support peace and security operations and cannot therefore use EU Budget funds to this end, but the CPA Article 11.4 does actually provide a strong basis for this work. This use of the EDF caused considerable debate initially, not so much about the need for the EU to support the AU and African RECs in peace and security work but because the EDF is seen as a development fund. In that sense the provisions of Cotonou in this area can be seen to have been more far-sighted than many people realised to the extent that the general conception of the EDF has in fact had to catch up with the more political nature of the Agreement.

3.5 Migration

The CPA Article 13 is in fact a compromise between two rather different views on the subject from the ACP and the EU sides. Both sides certainly had in mind the various development dimensions of migration (remittances, brain drain, etc.) although there was still considerable scepticism about the importance of tackling these within the ambit of development work. But the partners were also each prompted by other more political issues. Thus the EU Member States were preoccupied by domestic concerns to reduce the migratory pressures from the 'sending' ACP-partners and pushed for a readmission clause (Article 13.4). The ACP on the other hand were seeking to ensure the protection of their nationals inside the EU (Article 13.3).

Since 2000 migration has certainly become the object of '*in-depth dialogue*', as the CPA envisaged, but this dialogue has not always been easy. In the EU the Sevilla European Council in June 2002 agreed on conclusions that focused strongly on migration prevention and readmission and were regarded with alarm by many in the development sector. Subsequent to that however the debate has moved on and more understanding has developed in Europe about the need for positive measures in ACP countries alongside measures to manage migration and combat illegal migration and human trafficking. This shift is

¹⁵ The African Peace Facility (APF) was set up in 2003 as a mechanism to support African-led peacekeeping operations, and so far has been funded from the European Development Fund.

evident in the speeches of EU Commissioner Frattini (responsible for Justice, Freedom and Security) at a conference on migration and development in Brussels in March this year or more recently at the Euro-African ministerial conference in Rabat in July. The debate is by no means over as more clarity is still required on what really works best in terms of positive development measures to discourage migration and there is still much discussion on what such measures will really cost and where the funds should come from.

4 The Political Dimension in a Changing World

Overall therefore, the Political Dimension of Cotonou has certainly proven to be a valuable and timely innovation that has provided a framework for a number of very important debates in the six years that have elapsed since the Agreement was signed. In particular the framework has proved sufficiently flexible to adapt to debates that have emerged and the ones identified at the start (eg. peace, conflict, migration, governance ...) have all since proven to be important subjects for dialogue and cooperation. In this sense the political provisions have enhanced the Agreement and helped make it better able to cope with changing circumstances and challenges.

Five years of political dialogue within the CPA have demonstrated that this dimension of the partnership has widened and deepened. A broader range of partners has been involved, including non-signatories to the Agreement such as the African Union, and also, as envisaged, non-state actors. The growth of the African Union has provided the EU with a viable interlocutor with whom the EU can engage in region-to-region political dialogue in a way that the ACP Group could not do. The initial concerns that Article 8 would be used in a purely restrictive way have proved to be unfounded.

There have also been cases where a lack of dialogue have caused some frictions. For instance recently ACP members expressed concerns when the EC/EU unilaterally developed its Strategy on Africa. This illustrates both the value that African ACP partners attach to such dialogue, and the asymmetric power relations that largely continue to determine the partnership. Asymmetries also exist among ACP partners themselves in terms of their dependence on external aid (aid/GNP ratios varying from 20% to 0,4%) and in terms of their political commitment and capacity to reduce poverty. All such asymmetries cannot be wished away; they have to be managed properly in country specific forms of political dialogue.

There are other challenges related to the growing importance of governance within the CPA. Two global trends that will further affect the modalities for cooperation include the promised scaling up of aid by 2010 and the commitment under the Paris Declaration to improve the effectiveness of aid. The EU and its Member States may be enticed to 'push'

larger volumes of money at the expense of the quality of aid. Donor alignment behind partner country owned poverty reduction strategies raise new questions. The cases of Ethiopia and Uganda (mentioned above) illustrate the difficulties in terms of promoting the political dimensions of a governance agenda within the new aid paradigm. It is even argued that new aid modalities such as budget support may further reduce the incentives for donors to engage in frank and open political dialogue. The emerging involvement of non-traditional donors, such as China, will further influence the environment in which the EU and its partners give substance to the political dimension of the CPA.

b. Putting the Political Dimension into Practice

Wolfram Vetter¹⁶

The introduction of the political dimension into the Cotonou Agreement paved the way for comprehensive external relations with the EU's developing country partners. At the same time, the Cotonou Agreement was not negotiated and implemented in isolation from general developments on the EU level. The Maastricht Treaty had already introduced the Common Foreign and Security Policy (CFSP) in 1992 and the Treaty of Amsterdam a European Security and Defence Policy (ESDP) in 1999. The EU's foreign policy aspirations reached another high point with the adoption of the European Security Strategy (ESS) in 2003 as a reaction to 9/11.

In the same period many important changes also took place in the ACP context. Most ACP countries today subscribe to development agendas which are not just based on external support alone but accept and assume their own responsibilities. Democracy and good governance are widely understood to be necessary for economic and social development. ACP countries diversify their partnerships and define their needs themselves and they look for the most appropriate partners instead of depending purely on "traditional" links. Coalitions are formed and strengthened that allow for the most effective definition of common interests and that have the best potential to be listened to in our globalised world. Organisations are strengthened to define and implement regional integration agendas.

This implies that the relationship between ACP and EU has changed as well: it is no longer just a relationship between development or trade partners. On the EU level, cooperation and exchange with developing countries are also no longer the monopoly of the European Commission alone. The High Representative for the Common Foreign and Security Policy, Javier Solana, takes a close interest in the ACP countries as well. It is not anymore the ACP Council Working Group alone that deals with matters regarding the ACP countries, but also the working groups on Africa, the UN, human rights, non-proliferation and many others. Indeed there are hardly any of the twice weekly meetings of the Political and Security Committee where there is no African issue on the agenda. Political relations and aspects of peace and security in Africa are also no longer left to individual EU Member States (and former colonial powers), but are regularly and intensively addressed on the EU level, where the search for comprehensive and not just developmental approaches and solutions prevails.

¹⁶ The author works in the Africa Unit of the EU Council Secretariat. He was previously political advisor in an EC Delegation in Africa. This paper is written in his personal capacity and does not necessarily reflect any official positions of the European Union.

ACP/EU relations have become political relations as a basis for a real partnership. The Cotonou Agreement reflects this change and also offers the tools that are needed to actively promote and design the changing relationship between the EU and its partner countries. However, at the same time the geographical composition of the ACP group limits the usage of the opportunities that are offered by the Cotonou Agreement in particular when it comes to the promotion of continent-wide integration processes.

Peace and security

"Without peace no development, without development no peace", has become a standard phrase in speeches that relate to cooperation with developing countries be it from the economic cooperation or from the foreign policy side. This rather new understanding is fundamental for the re-orientation of the EU's external relations: the first chapter of the EU-Africa Strategy, for instance, is devoted to the issue of peace and security. Accordingly, there is a strong political engagement to tackle crisis in Africa as demonstrated by the SG/HR Solana, but also the EU Special Representative for the Great Lakes, Aldo Ajello in the Democratic Republic of Congo, as well as in the case of Sudan, where two high level meetings were organised in Brussels in the first half of 2006. Most recently, Commission President Barroso himself travelled to Darfur.

Generally, the taking up of peace and security elements in policies and programmes has enabled the EU to give comprehensive responses. This is also a reason why the EU has become a key partner of the African Union which itself has a comprehensive agenda going far beyond developmental matters.

The Commission has worked from early on with the AU on many aspects, not least on supporting the institutional reform of the AU Commission. However, there are two major strands that prepared the ground for strong and comprehensive EU/AU relations: the African Peace Facility and the African dimension of CFSP/ESDP.

With the establishment of the African Peace Facility, upon the request of the AU, the Commission entered a grey zone between development and security policies. The APF is designed as a development instrument supporting African efforts and it delivers against African agendas and African defined requirements; but it also supports the funding of military operations which have a direct security impact. This is only possible due to the flexibility of the Cotonou Agreement and its provision of Article 11. The EC Treaty would not allow for the funding of military operations.

In the case of Darfur, the APF support to AMIS became a central piece in the EU's efforts for the solution of a humanitarian disaster and a security crisis. The APF response, however, was not sufficient; the process had to be politically accompanied. Yet the EU and not just the Commission, was required as an actor and interlocutor for the AU, the government of Sudan and the rebels, as well as for other international partners. Also in terms of assistance, needs went beyond the funding of the operation. Logistic support was required, as well as experts and advice in planning and conducting AMIS. This gap was filled by the ESDP instruments through the provision of air lift, logistics, military observers, police officers and logistic experts. The EU support to AMIS became an important occasion where EU's development and crisis management instruments and the support provided by individual Member States complemented each other. The support to AMIS is therefore a key experience for the various EU actors involved. Not only in technical terms was the combination of development and crisis management instruments beneficial, but also the collective political efforts as developed and agreed in the Political and Security Committee helped to further shape EU's role as a key partner for the AU.

What can be achieved if the EU makes a comprehensive use of its instruments has been demonstrated during the elections in the DRC: the Commission financed through the EDF the infrastructure and organised an election observation. Important for the stabilisation were the interventions in the security sector, particularly in relation to the police and military forces, where two ESDP mission made key contributions, EUSEC and EUPOL. Furthermore, a stabilisation force of 2000 troops (EUFOR) was deployed in support of the UN peace keeping force MONUC.

The Political dialogue

The provision for dialogue is one of the key tools in the Cotonou Agreement that allowed the EU to further develop its external relations but its use has also posed a number of challenges. When the actors first started to apply Article 8, a new balance had to be found between the roles of the EU and its representatives on the local level, the Presidency and the Commission on the one hand side and the missions of EU Member States on the other side. The need to conduct this dialogue was not questioned. On the contrary, when Cotonou came into force there was already a wide understanding that the EU should engage in a broad and systematic exchange with government counterparts. Particularly smaller Member States were keen to have this dialogue. Sometimes their Ambassadors did not have regular and direct access to the highest level of government in their host countries. Article 8 dialogue was therefore also a welcome vehicle to receive first hand information and impressions, and also to make the own voice better heard.

This motivation however led to a dilemma: on the one hand side there is a legitimate interest of all heads of mission to participate in the dialogue on the other hand there is the question of what exactly should be achieved through this dialogue. Is it a forum to exchange views and information or is it an opportunity for conducting substantive talks where for instance a “give and take” could be negotiated? Opinions diverged. Moreover, Cotonou does not specify the format of the dialogue. The Troika with current Presidency, incoming Presidency and Commission seemed to be a viable option and was used from time to time; in particular if specific questions had to be addressed or démarches had to be made. The discussion of a broader political agenda however generally remained reserved for the participation of all EU Heads of Missions. In ACP capitals where most EU Member States are represented, this sometimes led to monologue rather than dialogue meetings.

As for content, there was a broad understanding on the EU side that questions of governance, democracy and the respect of human rights should be at the centre. The expectation was that through Article 8 the EU would move from a policy of declarations to a more productive interaction. For the partner countries this did not pose a problem a priori. First, the political dialogue meetings gave them an opportunity to express their commitment to good governance and human rights. They also could lobby for a certain understanding or patience and put the case that a poor human rights situation would improve only through a process which would also need the support of partners. Having a dialogue is often considered as a positive achievement as such, and in the end, a government could always still vary the frequency of meetings often pleasing or penalising a particular presidency in doing so.

Beyond these purely “political” aspects, EU actors expected that the dialogue would also help to introduce human rights and political governance elements into the development agendas of their partners. It is not always easy to make this point on the appropriate level. The World Bank, the most important partner in the PRSP process, did not want to become directly involved in questions related to political governance and human rights. The broader OECD coordination often suffers from the heterogeneity of this group. The Cotonou political dialogue thus often served to advocate for the introduction of elements such as commitments to hold free and fair elections in the PRSPs.

The opening to non-state actors

The political dialogue is complemented by the introduction of non-state actors (NSAs) as actors in the partnership. This opening reflects the important role civil society, local governments and other non-state actors play not only in economic and social development, but also in democratisation processes. In many cases the driving forces for positive changes are strong voices from outside institutional political systems and structures. EU and ACP

official stakeholders understood that civil society organisations have a role beyond service delivery.

Accordingly, the Cotonou Agreement raised high expectations in the NGO world in both Europe and in the ACP countries. The Agreement promises not only participation but also access to substantial funding. But the opening to non-state actors also meant great and new responsibilities for those who are expected to implement the Agreement on the ground, primarily the Delegations and the NAO/RAOs. At the same time the promotion of civil society is not only a very complex and challenging undertaking, it goes right to the heart of a political system.

When the Cotonou Agreement entered into force, many questions were still unanswered: What to do with the important amounts of funds that were allocated to the support of non-state actors? Support tiny local human rights NGOs and risk swamping them or give them to international NGOs with more absorption capacity? What kind of activities should be supported: just advocacy work or also traditional development projects? To whom exactly should the Commission Delegation talk to in civil society? Which organisations were representative, had legitimacy? On what should the Delegation talk about: the EDF financed development programs, the country strategy papers and the mid and end term reviews, or only about how to support the non-state actors themselves?

How could a balance be struck between civil society participation and keeping good relations with the authorities? Delegations found often themselves in a quite challenging position: on the one hand there was this clear mandate from Cotonou, on the other hand it was expected that the development programs were implemented in a normal way and, if possible, with increased disbursement rates.

To what extent should the consultations be steered by the Delegation without patronising the process; to what extent could the Commission rely on the civil society organisations to organise themselves to produce the concrete contributions that were needed? How to align and harmonise the new Commission activities with those of EU Member States? Directly supporting local human rights organisations used to be more the domain of Member States. The support of NGOs was an important contribution of Member States to the bilateral human rights promotion agendas and it also provided privileged access to information.

Many of these questions were highly political, but there was no sound analysis of the conditions and dynamics in which non-state actors were acting in their country specific context. Only a very few Commission Delegations had political advisers or governance experts; relevant expertise was also a scarce resource in the NAO offices.

When the work actually started it was sometimes discovered that a specific NGO was not much more than an "opposition" organisation that allowed for income generation of a former government official who had to leave for political reasons. Often local advocacy NGOs did not develop and act in an environment where they could have influenced public opinion through media and other channels. When pointing to human rights violations for instance, they almost automatically went into direct confrontation with the government authorities. Their authority and legitimacy could sometimes easily be put into question since they were not really membership based and depended on financing from international partners.

Many other local civil society organisations were serious and committed but often institutionally weak. It became clear that the emphasis had to be on building the capacity of civil society in general, which had to be a long-term endeavour. An environment had to be created within which non-state actors can best assume their responsibilities in a constructive manner. This cannot be achieved against a government, only in partnership and for this the Cotonou Agreement provides a good political and legal framework.

Conclusion

A review of 6 years of implementation of the political dimension in the Cotonou Agreement has to take into account the contextual and institutional changes in the EU and equally those on the side of the ACP countries.

From the EU perspective, the provisions of Cotonou's political dimension have complemented and reinforced the CFSP. Article 11, has allowed for the setting up of the African Peace Facility which is instrumental for the financing of African-led peace support operations. But Article 11 also triggered a stronger CFSP and ESDP engagement in Africa. In addition, the political dialogue and the opening to non-state actors produce a strong and effective link between the EU's CFSP and its development policies.

On the other hand, the implementation of the political dimension of the Cotonou Agreement has not necessarily strengthened the ACP structures. The new dynamics of economic and political integration that led to new regional organisations, do not respect the geographical composition of the ACP anymore. The question therefore is if the ACP framework can continue to provide a sustainable structure for a relationship that integrates and further develops the aspirations of the Cotonou Agreement. If not, the effect on the ACP countries does not have to be negative. On the contrary, the new comprehensiveness of EU's external policies integrating the political dimension might be a more solid basis for a real partnership between EU and its development partners, including with their emerging and strengthened regional organisations.

c. Broadening the Partnership to Non-State Actors and Local Governments

Jean Bossuyt

1 Background

Successive Lomé Conventions have often been considered as a “closed shop”, reserved for central governments. This was in line with post-independence development strategies, which gave a lead role to the central state in promoting growth and development. As a result, only limited opportunities existed for genuine participation in the cooperation process or to access resources.

For the first time, ACP-EC cooperation legally recognises the essential role that non-state actors¹⁷ and local governments¹⁸ can play in the development process. The Cotonou Agreement provides a fairly comprehensive legal framework for the participation of non-state actors. This is a major leap forward, still to be generalised to partnership agreements with other developing regions. Participation is seen as a ‘fundamental principle’ of cooperation (article 2). There is a separate chapter on the “Actors of Partnership” (Articles 4-7), defining basic principles, roles¹⁹ and responsibilities, and eligible actors. New opportunities are created for these actors to participate in political dialogue, policy formulation, implementation, as well as in mid-and end-of-term performance reviews. Access to resources is envisaged under the National and Regional Indicative Programmes.

From a development perspective, the broadening of partnership to non-state actors and local governments holds great potential in terms of fighting poverty, promoting growth, delivering social services and fostering democracy and good governance. The Cotonou Agreement makes it clear that participation is not simply a question of ‘sharing out the aid pie’. It is about overcoming a harmful ‘public-private divide’ by building a new partnership between state (central/local) and non-state actors for the delivery of development goods and services. The role of NSAs and local governments is no longer limited to a technical

17 In the formal language of the Cotonou Agreement, the concept of ‘non-state actors’ refers to a wide range of actors: “the private sector, economic and social partners, including trade union organisations and civil society in all its forms” (article 6). This open-ended definition has helped ACP-EC policy-makers and practitioners to look beyond the world of (urban-based) NGOs and to recognise the huge diversity and dynamism of civil society.

18 ‘Local governments are included under the category ‘state actors’. In both the text and spirit of the Cotonou Agreement (especially since the 2005 revision) they are considered as a ‘new’ actor to be integrated in ACP-EC cooperation processes (as an actor with a distinct identity, role and added-value)

19 A dual role is recognized for civil society: as service providers and as dialogue partners

contribution in the fight against poverty (at implementation level). The ‘new’ actors are expected to participate in public policy processes; to voice development needs; and to demand (downstream) accountability. It is also positive to note that the principle of participatory development is not limited to the national level policy processes, but also extending to the local, regional, and global levels of ACP-EC cooperation.

2 Experience of the past five years

It is relatively early to properly assess the impact of the new legal framework on actual cooperation practices. For all actors involved, the introduction of participatory development approaches amounted to some sort of ‘cultural revolution’. Decades of centralised management of development and cooperation processes are not erased with the stroke of a pen. Attitudes, roles and working methods needed to be adapted to the requirements of participatory development. There was no blueprint or a clear set of instructions available on how to engage with these new actors. The Cotonou Agreement spelled out the basic rules, but each country and region had to find the most appropriate way to build new relationships between state and civil society. Inevitably, it will take time, experimentation and much learning-by-doing before NSA and local government participation is properly mainstreamed and institutionalised.

Some of the main lessons of experience include:

- *Opening-up political space.* This is a first, often intangible outcome of the participatory development approach, advocated by the Cotonou Agreement. Combined with other policy processes such as the Poverty Reduction Strategy Papers, the broadening of partnership has helped to reinforce democratic and participatory trends (where they existed) or to reduce barriers against the involvement of non-state actors (in rather closed political systems).
- *Learning takes place.* At policy level, the official parties have made efforts to clarify the overall policy and implementation framework for extending the partnership through a range of dialogue processes and initiatives²⁰. At country level, there is growing acceptance of the need to invest time and resources in order to properly understand the nature of civil society, its internal dynamics and institutional development requirements²¹ as well as the sort of support that might help to build a legitimate, effective and viable civil society sector. For the non-state actors and local governments, the whole process has often been

20 Reference can be made in this context to the initiative of the ACP Secretariat to publish a ‘Users guide’ on the Cotonou Agreement for non-state actors.

21 This has led to the practice of carrying out “mapping studies” of civil society in a given country

pretty much a ‘pedagogic exercise’. They discovered the potential and complexity of ACP-EC cooperation and also came to realise the “homework” that awaits them if they want to be credible players in the cooperation process in terms of institutional development (e.g. the structuring of civil society); capacity building (e.g. in public policy analysis, in dialogue and negotiation skills) and governance reforms (e.g. democratic functioning of NSAs).

- *The quality of participation: a glass half full or half empty?* Opportunities have been created over the last five years for non-state actors and (to a much lesser extent) for local governments²² to participate in the three main pillars of the Cotonou Agreement (development cooperation; trade²³; and political cooperation²⁴). In the development arena, participation has been primarily organised around the programming process of ACP-EC cooperation. NSAs and local governments have an obvious interest in influencing this process, not least to ensure that it includes specific support programmes responding to their priorities. The record so far is mixed. Preliminary assessments made by the EC suggest that in a majority of ACP countries things are moving in the right direction in terms of consulting non-state actors; mainstreaming of participation across sectors; access to funding; capacity support, etc. Similar surveys, produced by non-state actors, tend to be more critical on issues such as the overall quality of NSA participation, the institutional set-up (including for follow-up consultations) the access to funding or the procedural complexities. These criticisms are, to a large extent, valid. Yet things should be put in perspective. It takes time to shift from a ‘single-actor’ approach to ‘multi-actor’ partnerships. Furthermore, the political and institutional conditions for effective participation of non-state actors are not always in place at country and regional level. Non-state actors are often part of the problem, as in many ACP countries they tend to suffer severe weaknesses, including fragmentation, competition, the lack of solid representative structures, and governance problems.

22 A survey done in 2005 by the ACP Local Government Platform provides field-based evidence on the very limited participation so far of local governments in ACP-EC cooperation processes. This is due to a variety of factors (e.g. unclear provisions in the Cotonou Agreement; confusion on the status of local governments and ways to engage with them; lack of information; capacity limitations, etc)

23 Despite the complexity of trade negotiations, NSAs have been able to raise a critical voice on EPAs, with increasing impact. Since the launch of the ‘Stop EPA campaign’, both ACP and EU civil society have become much more active in the EPA debate

24 Several opportunities can be seized to participate in political cooperation between the ACP and the EC. Thus, a growing number of National Indicative Programmes across the ACP include support to ongoing democratisation processes or governance reforms. NSAs can be called to play a role in the design or implementation of these programmes. Similarly, some progress is being achieved with the introduction of ‘rights-based approaches’ in particular fields (like water and sanitation or the fight against HIV/Aids), creating opportunities for involving specialised civil society organisations (e.g. gender organisations). Furthermore, the growing popularity of budget and sector support in ACP-EC cooperation brings along the need for a new set of accountability mechanisms, including from ‘the bottom-up’ through the involvement of civil society organisations.

- *Complexity, confusion and conflict.* Experience has also confirmed the complexity of dealing with non-state actors. It opens the door to a very diversified and dynamic arena of actors, with different motives²⁵. Moreover, the lines are often blurred between state and civil society. All this tends to complicate the identification of genuine change agents and the application of existing eligibility criteria for participation in dialogue processes or access to funding. Involving civil society also raises many fundamental questions about the drivers of societal change, the governance-society nexus, the link between elective and participatory democracy and the limits of civil society (in its dual role as provider of services or partner in dialogue processes). There is also no shortage of *confusion*. The end of the 'single-actor' approach means that the development stage is now occupied by a large number of actors without forgetting the many external actors that also want to play a part in the development process. Not surprisingly, there is some confusion among these actors about 'who should do what', compounded by territorial fights, jockeying for position and competition for funding. Participation also tends to bring along *conflicts* (e.g. between different categories of NSAs; between NSAs and local governments; with central governments, etc.)²⁶.
- *Avoid quick fixes, invest in processes.* Engaging with civil society should not be done in a rushed way, as 'quick fixes' generally mean moving away from participatory to instrumental approaches to civil society engagement. This is for instance the case when NSAs are 'handpicked' for dialogue processes without clear criteria and transparent procedures. It also happens when pressure is exercised on NSAs to unite in a single umbrella organisation in order to facilitate collaboration. These interventions have a rationale from a perspective of short-term programme efficiency. Yet they are likely to be counterproductive in the medium-term as they tend to neglect the natural diversity of civil society as well as to create fake consultation processes and umbrella bodies (thus preventing the organic growth of civil society). In a similar vein, it makes no sense to deliver civil society support programmes in a vacuum, as a self-standing action, isolated from mainstream development processes. Experience suggests that the effectiveness and sustainability of civil society support programmes largely depends on a proper articulation with national reform processes (e.g. decentralisation, good governance, public sector reform), with the activities of key institutions (e.g. political society, sector ministries) or with other donor initiatives.

25 The rapid increase in donor funding (from all sides) has often had perverse effects, such as an artificial explosion of civil society, including 'fake' organisations interested in tapping aid resources for private interests.

26 Another 'battlefield' is often the revision of the legal framework for effective NSA participation. Some ACP countries still display strong control-oriented attitudes towards civil society, using restrictive registration procedures as a selection mechanism. Several EC-supported civil society programmes explicitly aim at removing these barriers by contributing to the elaboration of a new framework for state-civil society interaction. This task may prove particularly challenging in difficult partnerships.

- *Adopting a societal transformation perspective.* Experience suggests that clarity of purpose is essential in dealing with the new actors. Why do official parties want to work with NSAs and local governments? What is the ultimate goal of the support provided? The challenge is to move beyond instrumental approaches (which still prevail in many places) to participation and to adopt a societal transformation perspective when engaging with non-state actors and local governments. This means recognising that participation is all about empowerment; it is about building social capital to properly use the new democratic spaces, as well as demanding rights. It implies adopting a 'governance' approach when promoting participation, which recognises the legitimate roles to be played by central and local governments. This challenge is particularly visible at local level, where donor funding may exacerbate competition between civil society organisations and (elected) local governments (instead of promoting collaboration). It particularly calls upon the EC to improve its overall capacity to manage the politics of participation and to provide strategic support to the consolidation of NSAs and local governments as a 'change agents'.
- *Adapting the roles of northern actors.* The Cotonou Agreement reflects the shift towards the new aid paradigm, aimed at turning more responsibilities over to partner countries through alignment and harmonisation, decentralisation of decision-making and new aid delivery mechanisms (e.g. sector-wide approaches, budget support). The new aid paradigm calls for a redefinition of the specific role played by European development actors (particularly NGOs and local government associations) in an increasingly complex, politicised, multi-actor and decentralised cooperation system. In 2003, the so-called 'Palermo-process' sought to address these issues through a 'quadrilogue' (EC, EU Member States, European Parliament and European NSAs) with varying levels of success. The new EC Thematic Instrument for Non-State Actors and Local Governments, to be operative from 2007 onwards, reflects the paradigm shift towards 'multi-actor partnerships'. It will be a major challenge to properly implement this new approach (in both geographic and thematic instruments).

d. The Case of the Implementation of the Cotonou Partnership Agreement: The Case of PASOC in Mauritania

Zakaria Ould Amar

What is PASOC ?

The Islamic Republic of Mauritania and the European Union have decided to dedicate part of the European resources of the 9th EDF to a Program in Support of Civil Society and Good Governance (PASOC). This program reflects the will of the two parties to strengthen civil society in all its diversity, taking into account local conditions. This way, it is hoped to support an emerging civil culture, and to consolidate democratization and good governance. Therefore, an agreement was signed on 20 July 2006 to support PASOC with an amount of 4,5 million EUR. The objective was to support good governance at the local and national level and to strengthen the partnership between the State and civil society. The following strategic priorities will be supported:

- *improving local governance*
- *strengthening a human rights culture and dialogue*
- *improving governance of civil society and the dialogue on national policies*
- *creating an institutional framework for interaction between State and civil society*

This program has been identified following a participatory consultation process (October 2004 – June 2005) led by ECDPM and the Mauritanian centre of expertise on governance ADAGE. The temporary suspension of aid following the political events of August 3, 2005, delayed the start of the programme. This unexpected slot of time was used to further prepare the ground for effective implementation.

Lessons from the field!

- «We are in a state respecting the rule of law, so I forbid you to meet illegal organizations», Senior government official at the launching of the identification mission of PASOC;
- «We regularly organize national assemblies but we don't change the President.» Member of a civil society association in the Hodh (South east Mauritania);
- «The control of local authorities is the sole responsibility of the State,. I don't want to hear any more talk about citizen's control over public action. » Senior government official dur-

- ing the talks about the future areas of intervention of the program ;
- «We, local governments, are elected by the people and NGOs don't have any legitimacy ; so tell me, in whose name are they talking.» members of the association of mayors in Adrar (North of Mauritania)

Some Opportunities

- The identification study has been undertaken on the basis of excellent TORs, developed by the EC delegation – who also made available a sufficient budget for the identification mission to the consultants;
- Political support to the process by the Delegation, with a systematic intervention by the Ambassador each time the situation so required,
- Gradual emergence of a group of 'allies' of PASOC among civil society and Mauritian intellectuals;
- The exposure of the administration to the PASOC process has somehow reduced fears that the civil society programme would work 'against' the state

Difficulties of the process

- The identification of PASOC came about at the end of a twenty year reign of authoritarian regime. The logic of confrontation was omnipresent
- There was a difference in approach between EU member states in Mauritania (Spain, Germany, France) in their approach to the institutional anchorage of the program and the EC;
- It was difficult to interact with certain categories of actors, especially the organizations in support of human rights;
- There were attempts at political recuperation by the old party in power during the mapping exercise, especially at local level;
- There were attempts at instrumentalisation by the administration during the selection of participants to the validation workshops during the identification study.
- Attempts at steering the identification process 'from the top';
- Difficulty of getting access to documents from other donors (such as the World Bank) during the feasibility study phase.

Innovations of the process

- There has been a systematic attempt to link civil society support to strengthening the partnership with the various state actors (central and local)
- For the first time ever in Mauritania, the operational management of a program financed under the EFD has not passed through the administration.
- The various parties have recognized the necessity to adopt a set of ‘guiding principles’ for the PASOC including the choice for a ‘process approach’ to implementation, with an institutional setting that allows for a joint, decentralized and transparent management.
- An autonomous Technical Implementation and Facilitation Unit (UTMOF) will be charged with the coordination of the implementation of the program under the political and financial responsibility of the official parties and of a tripartite Steering and Monitoring Committee (State – civil society – EC).
- The official parties have agreed on the necessity of a preparatory mission before the launching of the program with a number of concrete tasks and the following objectives:
 - i) facilitate the creation of the future UTMOF
 - ii) clarify key aspects of the institutional setting, while avoiding a demobilization of the civil society organizations interested in the program,
 - iii) prepare the operationalisation of the various interventions and the component ‘information and communication’
 - iv) launch the process of the rehabilitation of the legal framework governing civil society in Mauritania.

Transformational and systemic effects by PASOC

- At the beginning of the identification process of PASOC, most of the civil society actors were reluctant to identify with the chosen approach. Two years later, during the consultations in the context of the legal reforms for civil society organizations in Mauritania, one could notice a visible change in attitude with those organizations coming from the regions where PASOC had been working in depth. One could notice this from their better understanding of the role of non-state actors and from their more realistic propositions.
- This evolution was also noticeable during the identification of a European support program to the decentralization in Mauritania (Mission ECO 3). A number of civil society organizations from the regions and from the capital who had participated in the process of PASOC, managed to positively influence both diagnostics and the proposed strategies of the mission (especially in terms of citizen’s and civil society participation),
- The process of preparing PASOC also revealed a number of instances where non-state actors took up the responsibilities :

- i) a group of non state actors succeeded in countering the attempts to 'discipline' civil society organizations by imposing a top down structure. This was in sharp contrast to the approach by PASOC that favored a bottom-up approach.
- ii) the mobilization of civil society organizations against the unilateral designation by the administration of civil society representatives to the National Committee of the Transparency Initiative in the Extractive Industries. This even provoked the modification of the decree that created this committee.

Challenges of PASOC

- With only a few weeks to go before the operational start of the program, there are converging signs casting doubts over the 'sincerity' of the Government in terms of the PASOC program. In that regard, the 'diplomatic' refusal to hold a meeting at the ministerial level on the strategic axes of the future legal framework of the civil society in Mauritius was revealing.
- Confronted with these apparent low levels of government ownership, there is a need for improved cooperation between various donors, notably those member states which are involved in the identification of a European program in support of decentralization.
- The success of the implementation of PASOC will depend to a large extent on the facilitation capacity of the head of the implementation unit, and especially on the capacities to resist various forms of political pressures, including from those corners of the administration that are by and large 'hostile' to the program.
- The acceleration of the launching of the first call for tenders (relating to the structuring of the civil society) will allow for the consolidation of a number of interesting yet fragile initiatives that were identified by the mission of PASOC

e. Redefining ACP-EU Trade Relations: Economic Partnership Agreements

Sanoussi Bilal

Introduction: Imagining a new relationship

Imagine two regions: one rich, the other poor. The rich one, which likes to consider itself a free trader, had traditionally kept its market open to imports from the less prosperous region. Yet, the poor region has over several decades generally failed to develop capacity to export products beyond a few primary commodities.

Conscious of the moral imperative to strive for a more equitable world, and hence to foster the development of the poorer region, the rich region decides to make a generous offer. It proposes to negotiate a joint partnership with the poor region to promote its economic development. The principles are simple. Let us stimulate private sector investment by creating a large market among the poor countries. Let this market be open to foreign investment and exports from the rich, so as to benefit the local economy (consumers and industry) in the poor region. By enshrining their domestic trade (-related) policy and regional integration efforts in a formal agreement with the rich region, governments in the poor region would increase the credibility of their reform process. This pro-development approach would be reinforced by removing not only tariffs in goods, but also on trade in services, as well as other technical barriers to trade (TBTs) and behind-the-border restrictive measures. Last, but not least, the institutional and productive-capacity development, domestic policy reforms and adjustment measures needed to accompany the economic liberalisation would be supported by appropriate development assistance from the rich region.

Consider now two other blocks, where this time the prosperous region, having granted for decades almost free access to its market to products from the poor region, realises that charity does not pay off: it is costly for the rich while it fails to boost the economies of the poor. It therefore puts the following deal on the table: either the poor countries lose their preferential market access to the rich region, or they open their own market to capital, goods and services from the rich, under the conditions dictated by the rich regions. Besides, rich entrepreneurs having little to no interest in tiny underdeveloped market in a poor country, the poor countries are summoned to come together and adopt common external and internal economic policies so as to create an effective, large, integrated internal market. To sell their iniquitous programme to the poor, the rich region flexes its muscles while wrapping its arguments in the politically correct language of poverty alleviation and devel-

opment. Promising development aid that it fails to deliver at any significant level, the rich region revels in a paternalistic approach, claiming to promote the interests that the poor region has been unable to effectively defend.

These two scenarios, of the good North–South partnership and the shrewd cold-hearted free trade agreement, are perhaps just two sides of the same coin. Call the rich region the European Union (EU), and the poor one the group (or any sub-regional grouping) of the African, Caribbean and Pacific (ACP) countries.²⁷

1 The changing context of ACP-EU trade relations²⁸

1.1 *From Lomé to Cotonou*

The Lomé Agreements were initially considered as highly innovative development cooperation agreements. Predictable aid flows whose management was entrusted primarily to the ACP countries, non-reciprocal trade preferences and several export price stabilization mechanisms as well as commodity protocols for bananas, rum, sugar and beef and veal were considered to be very progressive measures that would enable ACP governments to achieve their development goals. However, over the years the Lomé relationship came under increasing pressure, especially after the end of the Cold War.

The Lomé trade regime did not achieve its expected results. Despite preferential access to EU markets in as much as 99% of all products, the ACP share in European imports had dwindled, from nearly 8% in 1975 to 2.8% in 2000. The export price stabilization mechanisms and the commodity protocols, while providing a lifeline to many (small) ACP countries has not led to the much-needed export diversification of the ACP.: 50% of total ACP exports to the EU are still concentrated in just 8 products. Perhaps most strikingly, non-ACP developing countries that did not benefit from the trade preferences has been outperforming the ACP countries in exports to the EU. Besides the disappointing results of the trade regime, tension has been growing between the preferences and the rules of the World Trade Organization (WTO). WTO rules do permit preferences as such, but the inherent discrimination between ACP and non-ACP developing countries within the Lomé trade regime, is not allowed (ECDPM, 2001). Facing increasing pressure from WTO non-ACP developing country members, and the high price the EU had to pay to obtain the WTO waiver, the EU became convinced that a new ACP-EU trade relationship was needed, which was WTO-compatible and would foster the ACP integration in the world economy.

27 For an extended overview on EPAs, see Bilal et al. (2006) and Bilal and Grynberg eds. (2007).

28 For an overview, see Bilal, Houée and Szepesi (2004) and Hove (2006).

1.2 Key features of Economic Partnership Agreements

Addressing the weaknesses of the Lomé Conventions, the EU and the ACP agreed to radically reform the ACP-EU trade relationship through the negotiation of the Economic Partnership Agreements (EPAs). The Cotonou Partnership Agreement (CPA), signed in June 2000, stipulates that the negotiations on EPAs would start in September 2002 and would be concluded no later than 31 December 2007 (CPA Art. 37.1). The preferential trade regime was extended throughout this transitional period. The CPA sets out four principles along which the EPAs should be formed²⁹:

Development: EPA negotiations must be placed in the context of the overall development objectives of ACP countries and of the CPA. To be of benefit to the ACP, EPAs must be 'economically meaningful, politically sustainable, and socially acceptable'. Hence, EPAs are not just common agreements on trade. Instead, they should be development-oriented trade arrangements that ensure sustainable development and economic growth in ACP countries and ultimately contribute to poverty eradication.³⁰

Reciprocity: The most important element of an EPA is the establishment of a Free Trade Agreement (FTA), which will progressively abolish substantially all trade restrictions between both parties (CPA Art 37.7). This is a radically new element in ACP-EU trade relations and also a necessary principle to make the EPAs WTO compatible, in line with Article XXIV of the General Agreement on Tariffs and Trade (GATT) (see Box 1). For the first time, ACP countries will have to open up, on a reciprocal basis, their own markets to EU products in order to retain their preferential access to the EU market. The rationale for reciprocity rests on the principle that liberalisation of ACP markets towards the EU will increase competition within ACP economies, thereby stimulating local and foreign (including EU) investment and the necessary adjustments of their economies, leading to growth and development.

Regionalism³¹: The EU clearly envisages negotiations with ACP regional groupings which will be in a position to do so, though it has not ruled out the possibility of concluding agreements with single countries, in exceptional cases. The principle of basing the future trade cooperation on regional integration initiatives stems from the conviction that regional integration is a key stepping stone towards further integration into the world economy, as well as a main instrument to stimulate investment and to lock in the necessary trade reforms (CPA Art 35.2) (see Box 2).

Differentiation: Considerable weight is given to differentiation and special treatment, which affirms the North-South character of the relationship. The CPA states that EPAs will take into

29 See for instance Bilal and Van Hove (2002).

30 See notably Bilal (2006a) and Bilal and Grynberg (2007).

31 For a more elaborate discussion of the EU support for regional integration, see Bilal (2005).

account the different levels of development of the contracting parties (CPA Art 35.3). Hence, EPAs should provide sufficient scope for flexibility, special and differential treatment and asymmetry. In particular least developed countries (LDCs), small and vulnerable economies, landlocked countries and small islands should be able to benefit from special and differential treatment.

Box 1: WTO Compatibility

Underlined by the various articles in the CPA, EPAs should be compatible with WTO rules¹. WTO compatibility is pursued to prevent the new agreements from being challenged by other WTO members. This means that the EPAs need to comply with Article XXIV of the GATT 1994, which states that FTAs must cover 'substantially all trade' (SAT) and its implementation process must be completed 'within a reasonable period of time'. It may be argued that this phraseology is sufficiently vague to leave room for many different interpretations. Partly because of the vague criteria, no FTA has ever been challenged in the WTO, posing a significant challenge to EPA negotiators about the possible extent of exclusion of products from liberalisation and the maximum length of the transitional period to be respected in order not to provoke challenges from WTO members. In order to clarify Article XXIV, the Doha Round included negotiations on this article. The ACP group made an important contribution as part of these negotiations, arguing that SDT provisions should be explicitly included in the article to take account of the developmental interests of developing countries engaged in N-S FTAs². However, since the Doha Round has been suspended since July 2006, it is likely that the EPAs will be finished before the Doha Round will be concluded. This implies that the EPAs will have to comply with the requirements as they are now stated in Article XXIV³.

Taking this into account, it may be argued that it is likely that the SAT will be defined as 90% of trade on average. This figure, which is most often used by researchers, is an average, which would extend the scope for exclusion to approximately 20% for the ACP and 0% for the EU if the asymmetry is maximised. The 'reasonable length of time' will probably be interpreted as a minimum of 10 years and a maximum of 12-20 years. The exclusion of products from trade liberalisation and the transitional period imply that ACP countries would be able to respectively protect a significant share of their sensitive sectors (and retain a sizeable share of their customs duties) and delay the liberalisation of the other sectors for a period of up to 20 years⁴.

Notes:

1. For a more elaborate discussion of EPAs and WTO Compatibility, see Onguglo and Ito (2003).
2. For a more elaborate discussion of the ACP submission, please consult Onguglo and Ito (2005).
3. See Bilal (2006b) for a more thorough discussion of the effects of the suspension of the Doha Round on the EPA Negotiations
4. Bilal and Roza (forthcoming) discuss the possibilities provided by Article XXIV and estimate potential retention of customs duties for six African countries.

Box 2- EPAs and Regional Integration*

Regional integration is a key principle of the EPAs. According to the EC, regional integration is key requirement for the development of the ACP countries. The EC argues that regional integration, by creating larger markets for the ACP producers, will stimulate economic growth in the ACP and will accelerate the integration of ACP countries in the world economy. By negotiating on a regional basis EPAs, which are expected to have a wider scope than just reciprocal trade liberalisation, the ACP countries will have an opportunity to strengthen their regional integration process and create dynamic regional markets, conducive to investment and development. For the EC, this will be possible if the ACP countries and regions embrace the wide scope of the proposed EPA agenda, as trade-related issues covered in EPAs -a legal, enforceable text- will contribute to lock-in much needed economic reforms in the region.

However, many stakeholders have cautioned against this optimistic view on the relationship between EPAs and regional integration. NGOs in particular have argued that the EPA negotiating process, forcing ACP countries to affiliate themselves with only one region that will negotiate a far-reaching agreement with the EU, have jeopardised many other autonomous regional integration initiatives. They criticise the EU-led consolidation of regional groupings in the ACP in general and Africa in particular, which does not always respect the own pace and scope of integration of the regions. Moreover, several aspects of the trade liberalisation vis-à-vis the EU, as envisaged in the EPAs, will involve very complex harmonisation and coordination processes within the ACP EPA regions. For instance, it is expected that ACP countries will need to present a harmonised tariff system for all products at the start of the liberalisation process, which may take up to any period between 10 or 20 years, and will need to agree on a regional 'exclusion basket'. Both harmonisation processes may respectively cause a sudden fall of trade tax revenues and will limit a country's possibilities to protect sensitive sectors (Bilal and Roza, 2006).

Additionally, the availability of the 'Everything but Arms' initiative, which provides non-reciprocal trade preference to LDCs, creates a dichotomy between LDCs and non-LDCs that cuts through all ACP regions negotiating an EPA. This may create tensions in the respective regional integration processes, as ACP LDCs may have interests on EPAs that differ from non-LDC members of their region. According to some NGOs, EPAs in their current form will undermine the regional integration efforts of the ACP regions, since it puts the ACP LDCs, which already benefit from generous trade preferences under EBA, in a dilemma vis-à-vis the non-LDC countries in the region. Joining an EPA would mean that the LDC members open up their market to EU products in a reciprocal basis, which they may not wish to do.

To effectively build on and strengthen regional integration, EPAs have to strike a careful balance between stimulating the creation of effective regional markets in the ACP and respecting the autonomous regional integration agenda of ACP countries. Many ACP policy makers recognize that EPA negotiations have already contributed to focus the attention and mobilise efforts of national and regional authorities on their respective regional integration processes, with an increased credibility. At the same time, EPAs should not lead to regional integration in the ACP at a forced speed, along the lines of an EU-driven vision and agenda of integration. Regional priorities, concerns and constraints have to be respected and fully taken into account in the design of an EPA. The European Parliament, among other key actors, will have an important responsibility in ensuring that the EU does not impose its regional integration model or vision on ACP countries and regions, and that EPAs fully reflect the regional priorities of the ACP.

* For more papers that address regional integration from different perspectives, see, Bilal (2005, 2004a, 2004b), Bilal and Page (2001), Charalambides (2005) and ECDPM InBrief series No15 Overview of Regional EPA negotiations, www.ecdpm.org/regionalepainbriefs.

2 Progress with the EPA negotiating process

2.1 *Different expectations in the EU and the ACP?*

The negotiations have been structured around two main phases. The first phase, extending until September 2003, took place between the European Commission (EC) and the ACP group as a whole. The objective of the all ACP phase was to define the format, structure and principles of the negotiations. Phase II of the EPA negotiations opened in October 2003 at the regional level, between each of the self-determined ACP regional groupings and the EU. Since the start of the negotiations, EPAs have created a great amount of tension among the two negotiating parties. Even on the objectives of Phase I of the negotiations, the ACP and the EU had a different opinion. More remarkably, three years into the substantive phase of the negotiations, and although some progress has been achieved³², the prospect of EPAs has raised serious concerns and led to further divergences between the EU and the ACP on a wide range of issues, most importantly the approach to development.

For the EU, EPAs will foster development mainly through trade liberalisation and the creation of the right policy framework to attract investment. By creating free-trade areas among themselves and with the EU, the ACP countries will benefit from trade, fostering economic growth and hence development. In addition, by building on the ACP regional integration processes, EPAs should contribute to the establishment of effective regional market in the ACP, thus attracting and stimulating (both domestic and foreign) investment, a necessary condition for sustainable development³³.

From an ACP perspective, however, EPAs only make sense if they foster development. While most of the ACP states would agree with the EU on the development opportunities entailed in an EPA, they tend to consider trade liberalisation and regional integration as necessary, yet far from sufficient conditions to foster development and alleviate poverty. In other words, creating large open regional markets and increasing export opportunities for the ACP require adequate institutions, policies and resources to adjust and foster the necessary economic transformation and to produce and market their goods competitively. It is at the interface between trade and development that the EPAs have yet to emerge as coherent development instruments.

32 See ECDPM Regional Inbriefs series, the periodical Trade Negotiations Insights (www.ecdpm.org/tni) and www.acp-eu-trade.org/news for regular updates on the EPA Negotiations. ECDPM has outlined the technical issues that have been discussed in previous EU FTAs (FTA InBriefs) and that will be negotiated in the EPAs (EPA InBriefs).

33 For a more elaborate discussion of the economic effects associated with EPAs, see Szepesi (2004). For a review of some independent impact assessments of the EPAs, see McQueen (1999), Roza and Szepesi (2003) and Szepesi and Bilal (2003).

Many stakeholders from ACP countries, some EU member states and a large coalition of southern and northern non-governmental organisations (NGOs) (under the umbrella of the 'Stop EPA campaign') maintain that the current EPA negotiations do not include those elements required for economic development and export growth to actually occur, and have increasingly been voicing these concerns. According to the 'Stop EPA Campaign', the creation of a free-trade area between countries with such different development levels would disrupt local production and government revenues, create unemployment and impose liberalisation of services and investment regimes, ultimately increasing poverty rather than reducing it.

In fact, although the CPA explicitly refers to EPAs as the option for new trade agreements, such arrangements are not the only possibility envisaged in the Agreement text. Neither the EU nor the ACP are bound to conclude EPAs, as Article 37 of the CPA explicitly offers the possibility for alternative arrangements, distinguishing between the two cases of LDCs and non-LDC ACP countries.

Earlier this year the range of alternative options to an EPA was presented by ECDPM³⁴. These include alternative EPAs, which comply with GATT Article XXIV (in its current or revised form) and alternative to EPAs, should the new trade regime deviate from the reciprocity principle, and thus fall outside of the scope of GATT Article XXIV. The EU considers that the EU GSP is the only alternative to EPAs. This would imply that the enhanced version of the EU GSP, named GSP+ would apply to non-LDC ACP countries and LDC ACP countries would benefit from the 'Everything but Arms' initiative, granting LDCs duty-free access to the EU market for all products. The EC stresses that this would be a second-best option, dealing only with duty and quota restrictions, and that the ACP would then miss on the opportunity to build effective regional markets and fail to address real market access issues.

Whereas each scenario differs in scope and in terms of their political feasibility and acceptability each ACP country and region should through a consultative process identify the relevance of various alternative trade regimes in relation to its overall national or regional development strategy. The current formal and comprehensive review of EPAs could provide a good opportunity to consider the options available.

34 For a more elaborate discussion of alternatives to EPAs, see Bilal and Rampa (2006a).

2.2 How to ensure development friendly EPAs?

Despite wide divergences on the approach, both the EC and the ACP agree that EPAs are above all about development. It could be argued that for the positive development effects of EPAs to be brought about, the EPAs must exhaustively address the various linkages between trade and development.³⁵ In this context three categories of measures seem to be important:

Trade (-related) regulations: The trade and trade-related provisions of the agreement will need to take account of the specific needs and vulnerabilities of the ACP countries and regions. If the rules and measures in the EPAs do not reflect these specificities, the ACP will probably not benefit from the free trade agreements, despite the merits associated with trade liberalisation. Examples of necessary measures are asymmetric trade liberalisation, allowing ACP countries to postpone and/or exclude sensitive products from trade liberalisation in the EPAs, while the EU liberalises all imports from ACP from the date of entry into force of EPAs.³⁶

Accompanying measures and policies: Accompanying and adjustment measures and policies will facilitate the preparation, negotiation and implementation of trade and trade-related measures and are necessary for ACP countries to reap the benefits and meet the challenges of trade liberalisation with the EU. Indeed, trade rules alone cannot deliver on the development promise. They need to be framed within a set of policies and accompanying measures to be able to stimulate economic growth. Since trade rules generate winners and losers, they also need to be complemented by parallel economic and social policies to ensure a fair and equitable distribution of the benefits from an EPA.

Effective processes for support delivery: Effective and efficient delivery of assistance is required to finance the adjustment and accompanying measures. If promised support is delayed by heavy procedures for example or does not actually reach the intended beneficiaries, the ACP will not be in a position to benefit from the opportunities offered by an EPA.

The human and institutional capacity to negotiate and implement the trade agreements are two major cross cutting issues that affect the possibility of EPAs to be real development instruments ACP countries are currently engaged in several negotiations; namely at

35 See Bilal and Grynberg (2007) for a general discussion.

36 For a synthesis presentation of trade (and investment) provisions of EU FTAs with developing countries, see ECDPM InBrief series No. 6 Comparing EU Free Trade Agreements www.ecdpm.org/ftainbriefs. The ECDPM InBrief series No 13 Negotiating Economic Partnership Agreements www.ecdpm.org/epainbriefs intends to outline topical trade issues in EPAs. Note that trade-related provisions are often closely connected to accompanying and support measures, as in the case of investment for instance (see Velde and Bilal, 2005 and 2003)

regional integration level, with the EU in the EPA negotiations and at a multilateral level in the WTO negotiations. Many of the issues are actually discussed at all three levels and outcomes at one level may have a profound impact on the negotiations at other levels. It is therefore crucial to build and strengthen the ACP capacities to prepare and negotiate these various trade agreements³⁷. Once concluded capacity is also needed to implement these agreements.

Besides the capacity constraints, another factor that will influence the extent to which the ACP countries will benefit from EPAs is the quality of institutions. Institutions, which were long neglected as a factor of importance, have recently received a lot of attention and are now considered one of the most important determinants of economic growth. In a similar fashion, the relationship between institutional quality, trade openness and economic growth has been researched as well and concluded that for many (not all) ACP countries the level of institutional quality is that low that they are unlikely to reap benefits from trade liberalisation³⁸. Institutional development is therefore a prerequisite for the EPAs to succeed in their objectives.

2.3 Aid for Trade: More and better?

As discussed above, for EPAs to become instruments of development, the ACP countries need to engage in complementary reforms and adopt appropriate accompanying measures, address their supply side constraints and the competitiveness of their products. The Aid for Trade (A4T) debate that has been ongoing at multilateral level is an attempt to address some of these challenges³⁹. The A4T initiative recognizes the developing countries' needs for (financial) assistance to be able to take advantage of the potential benefits from liberalized trade and increased market access and to facilitate their integration into the multilateral trading system.

The EU acknowledges the constraints but argues that the EPA negotiations, as foreseen in the Cotonou Agreement, were about trade and trade-related issues only. Secondly the development assistance for the ACP is already covered through the European Development Fund (EDF). The 10th EDF amounts to € 22.7 billion for the 2008-2013 period. It should also be noted that the EC does not have the mandate from EU member states to enter negotiations on development assistance.

37 For more information on (trade) capacity building, see, Bilal (2003), Bilal and Laporte (2004), Bilal, Laporte and Szepesi (2006), Bilal and Szepesi (2006, 2005), Bouzas (2004), Dunlop et al. (2004) and Solignac Lecomte (2001).

38 For more information on the importance of institutional quality, see Busse et al (2006).

39 For more information about the development dimension of EPAs and A4T, please see Bilal and Rampa (2005).

At the General Affairs and External Relations Council (GAERC) on 17 October, however, the EU Member States agreed to provide bilateral funds for Aid for Trade on top of the EDF administered by the EC. These conclusions establish an explicit link between Aid for Trade and the development support for EPAs. A substantial share of this trade-related assistance (€ 1 billion by the European Community and € 1 billion collectively by EU Member States) will be earmarked to support the EPAs.

The additionality of these funds remains to be seen. Some fear that little extra support will be provided and that the EU commitments will be honoured by re-labelling existing aid commitments towards trade and regional integration objectives⁴⁰. The € 2 billion trade related support will serve to finance trade policy and regulation as well as trade development. For the trade related infrastructure, supply side constraints and adjustment costs, the European partners will endeavour to provide extra support but no explicit commitments were taken. Beyond the amounts of support, the delivery mechanisms and procedures will need to be carefully designed to ensure the effective disbursement of funds. Indeed, given the operational weaknesses of the EDF (such as low levels of disbursement or cumbersome procedures), it could be questioned whether this is the most appropriate instrument for effective, timely and efficient delivery of A4T resources. The European Parliament, together with other European and ACP stakeholders, should closely monitor this process. They can play a catalytic role in ensuring that appropriate additional resources and effective and timely delivery mechanisms are set in place to accompany the implementation of EPAs.⁴¹

2.4 The 2006 EPA Review: re-orienting the course of the negotiations?

After having agreed to postpone the review of the EPA negotiations in 2004 to 2006, the review is currently taking place. The review of the EPA negotiations, which is called for in CPA Article 37.4, provides an opportunity to reassess and further harmonize the relationship between regional integration and EPAs, taking into account the objectives and capacity constraints of the regional groupings. For this Review to be really meaningful, however, and to facilitate the conclusion of a new trade regime between the ACP and the EU that effectively fosters the development in the ACP, it must entail a comprehensive process. Indeed, the EPA Review could provide not only an opportunity to assess the progress made and difficulties encountered in each EPA region and its member countries. It can also serve to better specify the direction for a truly development-oriented new trade regime between the ACP and the EU. In that sense, the 2006 Review of EPAs may provide the right momentum to put in place a continuous monitoring mechanism of EPAs, during their negotiations and most importantly during their implementation phase.

⁴⁰ For a more elaborate analysis of the GAERC Conclusions, see ECDPM (2006a).

⁴¹ See ECDPM (2006b) for a preliminary discussion on EPA-related support mechanisms.

Designing such a monitoring is no easy task since there are so many areas to be monitored and the EU and the ACP have diverging opinions on the specific goals to be met by the EPAs.⁴² Yet, the ‘development benchmarks’ approach may offer a possible way to address these difficulties. Development benchmarks would ensure clarity on the assumptions and values underlying the monitoring exercise and on the specific methodology adopted. Credibility, transparency as well as ownership of the monitoring exercise would be maximized, assisting those concerned about the uncertain development content of EPAs. Those, like the EC, who believe the development content of EPAs is already present, could use the benchmarks to show that current EPAs actually fulfil the development expectations.. In addition, the ‘development benchmarks’ could also provide an important analytical tool for ACP negotiators to assess the outcome of EPA negotiations and to ensure that trade liberalisation works in favour of sustainable development. It would also strengthen the capacity on the ACP side to undertake comprehensive consultative processes to prepare for the negotiations. This would certainly facilitate and improve the broader discussions on the economic, development and institutional impact of EPAs.

The Review may also serve to identify possible new directions.⁴³ In this regard, all possible scenarios for an EPA or alternative arrangements could be considered. It is arguably unfortunate that the Review in some regions is taking place only among the negotiators themselves. It is important for the Review not to be confined to a joint assessment by ACP and EU EPA negotiators, but that more stakeholders from the private sector, civil society and other ACP and EU institutions are involved.

2.5 What impact of EPAs on the ACP and the ACP-EU partnership?

When (or if) concluded, EPAs will have a profound impact on the ACP countries and regions. The ambition is to develop open, regionally integrated markets, conducive to economic activities and that effectively contribute to sustainable development and poverty alleviation. However, to be meaningful, EPAs cannot be an end in themselves. They must be embodied in and stimulate a broader development agenda that would entail major domestic reforms and adjustments, including at the institutional, productive and infrastructure levels, as well as in terms of governance and social policies. Under these conditions only can the grand design of an EPA deliver on its development promises.

42 For an initial discussion on monitoring EPAs, see Bilal and Rampa (2006c).

43 See Bilal and Rampa (2006b).

For this to happen, three conditions are required:

- (1) the strong political will and commitment of the ACP countries and regions to engage in far reaching reforms,
- (2) the ability of the ACP to elaborate and implement such a comprehensive development agenda, and
- (3) a genuine engagement from the part of the Europeans and the international community, respecting the priorities set by the ACP countries and regions, and providing appropriate support to facilitate and accompany the ACP transformations and help address their various capacity constraints.

The immediate challenge is to anchor the EPA agenda into a broader development strategy and domestic reform agenda, as well as to ensure an effective implementation of the various dimensions of the CPA, A4T and other complementary initiatives. How will the ambitions for development of EPAs and the various commitments be made operational?

In the longer term, the pertinence of the ACP-EU partnership and of the ACP Group itself will also have to be reassessed. EPAs have been initially presented by the EU as agreements focusing trade-related issues only, the other dimensions of the ACP-EU partnership (i.e. development cooperation, political dialogue and governance, and the participation of non-state actors) being covered by the CPA. However, recent events suggest a slight shift of approach, with the explicit recognition that discussions on development support are intrinsically linked to the EPA negotiations, notably but not only through the earmarking of fund for EPAs under the A4T initiative. In addition, EPA negotiators in various groupings are also considering how various provisions of the CPA not directly related to trade could be included in the legal text of an EPA, hence building on the *acquis* of the CPA.⁴⁴ When entering into force, an EPA could thus cover elements beyond trade matters. In fact, looking at the approach of the EU with other (non-ACP) partners, its recent free trade agreements have generally been embodied in broader agreement, covering not only trade, but also development cooperation and political dialogue. This is the case for instance of the EU relations with Chile, Mexico, South Africa, Mediterranean countries in the context of the Barcelona process, its association agreements with Balkan states and the approach followed in the context of its new Neighbourhood Policy. The EU is also currently pursuing such comprehensive approach with Latin American and Asian countries. In this context, one could expect pressures over time to regionalise the ACP-EU partnership along EPA configuration. The recent Africa Strategy and Caribbean Strategy of the EU might be perceived as first parallel first initial steps in that direction.

⁴⁴ This is the case notably on the development assistance and more controversially on the possible inclusion of a non-execution clause based on CPA Art.96.

The question at stake is not so much what will happen to the ACP-EU partnership after 2020, when the CPA will expire, but rather what will be the value added and role of the ACP Group and the relevance of an overarching ACP-EU framework of partnership? Should EPAs be then extended to include political and development cooperation dimension besides trade, or should the ACP remain the prevailing umbrella, and to which end?

Both the ACP and the EU agree that the EPAs should be instruments based on and reinforcing the regional integration process in the ACP sub-regions. However, the parties still disagree on the timeline and on the ambitions of the negotiating agenda. The question does remain how to shape an EPA that will actually strengthen the ongoing regional integration process rather than complicate it, foster the economic and institutional development of the ACP and build on a domestic own agenda.

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f. EDF Management and Performance

James Mackie

How much did the new emphasis on performance and the rationalisation of instruments and management of aid contribute to more effective and efficient development programmes?

1 Background

The year the Cotonou Partnership Agreement (CPA) was signed was also a watershed year for EC development cooperation for the management for EC external assistance. Just a month earlier (May 2000) the Commission issued a communication on the Reform of EC External Assistance and by the end of the year (November), the Commission and Council together adopted the first Development Policy Statement for EC development cooperation. Right at the start of the next year EuropeAid was established as a unitary implementation agency for all EU external assistance including the administration of the EDF. On the global level this was also a year of debate and change in international thinking on development: the Millennium Declaration with its MDGs that have since become so central to our thinking, was signed at the UN General Assembly in September and discussion which led to the Rome and then Paris Declarations on Aid Effectiveness was also getting under way. The year 2000 therefore ushered in a period of major change in the way EC development cooperation was managed.

The Reform of EC External Assistance sought first to restore the political credibility and legitimacy of EC aid. Partly this was a question of policy renewal and improvement, but improving effectiveness and management performance was also a major objective so as to ensure better impact on the ground. As part of this effort an ambitious reform of financial and administrative control mechanisms and organisational measures were approved. The establishment of the new agency, EuropeAid, in 2001 was then followed by the devolution of authority for much decision making to EC Delegations across the ACP. Staffing levels in the Delegations, so as to cope with the added responsibilities, were slowly increased. A new, more systematic and strategic approach to programming of aid was adopted that included standardised Country Strategy Papers and a centralised quality support system. Finally a new financial regulation for the EDF closer to that of the EU Budget was brought in so as to reduce the number of different procedures in use as much as possible. Thus while some of the changes were brought in by the new Cotonou Agreement, others were a result of this

broader reform. In addition of course other changes that were not envisaged in 2000 have occurred in practice, such as the increase in the Commission's use of *direct budget support* to the extent that by 2004, 25% of the EDF was channelled through this aid modality⁴⁵.

The Cotonou Agreement itself contained various innovations on management. The key change was of course the end of the aid entitlement system of Lomé and its replacement by allocations linked to performance. This involved a system of allocation criteria based both on needs and on performance and regular performance reviews in a five year cycle with annual, mid-term and end-of-term reviews. Finally of course performance was linked to financial allocations and as of the mid-term review allocations could be lowered or raised depending on progress. These changes were thus expected to produce a more flexible and strategic approach to cooperation that could adapt to progress achieved and changes in circumstances. There was also a drastic simplification of instruments so that ACP governments now had to deal with just one instrument the National Indicative Programme which was split into the two A and B envelopes. Linked to these changes in EDF management the CPA also proposed to enhance the role played by National Authorising Officers (NAOs), the senior government minister or official in each ACP country who held responsibility for the use of EDF funds, and the NAO offices that supported them away from an essentially technical and financial managerial role towards a more strategic one.

As ECDPM said at the time:

*"...it was felt that a performance-based partnership had the potential to transform the current [former], largely inefficient system of donor-imposed conditionalities into a locally owned set of accepted objectives and performance criteria."*⁴⁶

Six years later in 2006 it is possible to point to the implementation of all these changes in a practical sense, but what have they achieved in terms of real impact? Have these various changes had an effect and how have they improved the effectiveness of ACP-EU cooperation on development programmes? Has the approach become more strategic and less managerial?

2 Overall Assessment of the Reform

The EC has produced a number of progress reports on the reform and, since June 2000, there has also been a series of annual debates in the Council of Ministers to look at the effectiveness of EC aid. The conclusions from these debates convey a picture of regular,

45 EU Court of Auditors, 7.10.2005, Special Report 2/2005 Concerning EDF Budget Aid to ACP Countries, OJ C249/1, Luxemburg

46 ECDPM, 2001, Cotonou Infokit: Performance Based Partnerships, Fiche 21, Maastricht

step-by-step, positive progress and steady improvement in the EU Member States' perception of the quality of EC aid and its management. In particular the system of programming, CSPs and the review and support from the iQSG⁴⁷ are generally recognised to have been an important qualitative step forward. Beyond the Union, the OECD, that has been very critical of EC aid management in its 1998 Peer Review, also noted a positive change in its 2002 Review of the EC:

“The DAC noted favourably that the European Community's development policy framework, programming, organisation and management have been strengthened in numerous ways. In particular, poverty reduction is now the principal aim of development assistance, in line with DAC guidelines and assessed against the Millennium Development Goals (MDGs).”⁴⁸

Over the five year period ACP NAOs have at several points⁴⁹ expressed concern on progress being made with a number of these changes and the impact they were having on them. It is clear that the switch to the new management systems, the whole process of devolution to the Delegations and the new procedures all took their toll on the NAOs and their staff. This is perhaps not so evident in the quantitative indications given by levels of commitments and disbursements where recent EC reports⁵⁰ indicate that the EDF is well on target to be fully used within the period.

The devolution programme was fully implemented in the ACP by 2005, but there were certainly numerous teething problems. In particular new staff appointments and staff training took time to catch up, but by now it would seem that that the overall the change has bedded down and is generally seen as an improvement.

2.1 EDF programming process

The improvements to the CSP/RSP programming system and the simplification of the number of financial instruments to be used with EDF⁹ certainly enabled the move to a more integrated and holistic approach. Whether or not this also enabled greater ownership by ACP governments is however more questionable. As Rasmussen & Scott describe in their

47 iQSG – inter-Service Quality Support Group in the Commission which reviews all Country and Regional Strategy Papers and sets guidelines for programming

48 OECD, 2002, DAC Peer Review of European Community Aid, Paris http://www.oecd.org/document/57/0,2340,en_2649_34603_1935353_1_1_1_1,00.html

49 Eg. ACP NAOs & RAOs' Brussels Declaration , 10-12 May 2003 and conclusions of ACP NAO Regional Meetings in 2004

50 For instance see: European Community, 2006, Financial Information on the EDFs, Document approved at GAERC 17 July 06, 11676/06 BUDGET 37

paper for this workshop⁵¹ the more holistic approach certainly raised quality, but it also had high costs in terms of capacity requirements to do the work. It is clear from this paper and other available evidence that many NAOs thus continue to have difficulties in coping with the requirements. As a result it would seem that much programming is still essentially done by EC Delegation staff rather than jointly with NAOs and that the use of (European) TAs by NAOs has remained high. The goal of increasing ownership by partner countries of these processes thus remains elusive. This in turn underlines the importance of the current drive towards harmonisation and alignment pushed by the Paris Declaration.

2.2 Review process

As has already been said the key change in EDF management brought in by Cotonou was the end of aid entitlements and the introduction of what was referred to at the time as a *performance based partnership*. The principal tool to put this into effect was the five year performance review process consisting of annual reviews, a mid-term review (MTR) and an end-of-term review (ETR). It is too early to assess how the whole cycle has worked as the ETR is only just now being completed in the field and the results will only be known in mid-2007. However it is possible to draw some conclusions from the MTR exercise conducted in 2004.

Financially the MTR was more or less a zero-sum game with the increases and decreases in allocations for different ACP countries more or less balancing each other out. ECDPM work on the MTR suggests that overall a fairly consistent approach was adopted with positive performance assessments leading to increases in financial allocations or to no changes being made. Indeed in terms of the decisions taken on allocations, slightly less emphasis seems to have been given to policy performance in focal sectors than to financial performance, although both were certainly considered and special considerations pertaining in certain ACP countries were also taken into account. The focus of the reviews was also strictly on the use of EDF funds and not on the overall development performance of countries, nor on their overall evolving needs. As a result, it does seem that the MTR placed more emphasis on the management of EDF resources rather than on outcomes or on a strategic assessment of how national development was progressing.

Two other critical points on the MTR should be raised, the first being the extent to which the MTR was a *joint* review process. By and large the involvement of NAOs seems to have been fairly limited and was in practice often reduced to making comments after the fact on reports produced by the EC Delegation. Second, very little attention seems to have been

⁵¹ Rasmussen, Vibeke & Jason Scott, 2006, EDF Management & Performance, Paper for ECDPM Cotonou Seminar 18/19 December 2006, Maastricht

paid to the EC's *own performance* and only a few MTR reports acknowledge explicitly the negative impact of factors such as the devolution process, slow and inappropriate decision making at EC headquarters, difficulties with inadequate and delayed information provision, lack of staff in both the Delegations and NAO offices and cumbersome EDF procedures.

It is to be hoped that some of these criticisms of the MTR have been corrected in this year's ETR process, particularly as again many of them have a direct bearing on the achievement of the Paris agenda. Overall however, the picture emerging so far does suggest that while one of the central objectives of the changes brought in by Cotonou, that is the wish to reward performance and end the culture of entitlement, has at least in part been achieved, the other goal of increasing ACP ownership of the programming and review cycle seems to be much more in doubt.

2.3 EC proactive on spending EDFg

In terms of overall net increases and decreases the MTR⁵² thus enabled the EC to make an overall increase in the allocation by € 334 million and move over € 1 billion from the reserve B envelopes to the programmable A envelopes. In financial management terms this is of course an important boost to the spending of EDFg. Equally it is clearly good news for those ACP countries that are performing well and able to use the resources to further their development. It remains to be seen if the Commission will still seek to make further similar adjustments to the allocations in 2007 as a result of the ETR. The margin for doing so effectively is of course limited by the fact that all EDFg funds have to be committed by the end of the year.

In addition, the European Commission has been very proactive in seeking to find uses for the intra-ACP envelope of EDFg and the *conditional billion* that was made available providing commitments progressed well. One of the main solutions found for this has been to launch a number of initiatives and special facilities for use on specific purposes as detailed in the table below. These have also enabled the EC to respond more flexibly to regional needs and global initiatives that have arisen during the period since 2000. In total these have been allocated more than € 1 billion euros.

52 Much of the movement of allocations in the MTR was between the A (programmable resources) and B (reserve) envelopes in the national allocations. In assessing the overall impact of the MTR it is thus important to look at the overall net changes in allocations.

Facilities	Allocations from EDFg
Africa Peace Facility	€ 300 million
ACP-EU Energy Facility	€ 220 million
ACP-EU Water Facility	€ 500 million
EU-Africa Infrastructure Partnership	€ 60 million
ACP-EU Natural Disasters Facility	€ 12 million
Total	€ 1,092 million

The creation of these facilities however does seem to contradict two established principles: the old Lomé-Cotonou *joint management* principle and the deliberate decision taken with Cotonou to reduce the number of instruments and thereby the complexity of managing EDF resources. Only in the case of the APF is the facility really managed jointly with an African instance: the African Union.

All of these facilities certainly respond to needs in ACP countries and it is also important that partly as a result of these facilities EDFg funds are being fully used. However, the ACP have been critical of the fact the Commission has initiated most of these facilities. In fact only one of these facilities (Natural Disasters) emerged as an initiative from the ACP Group and one other (Africa Peace Facility) from a dialogue between the EC and the AU Commission. For EDF10 the Commission is currently planning to increase allocations to most of these facilities and indeed establish a further such facility with the Governance Initiative. Exactly how best to make use of these facilities alongside funds from the NIPs and RIPs is already causing debate in the EDF10 programming exercise.

2.4 The changing role of the NAO

One other important shift that has occurred in the management of the EDF since Cotonou was signed is a change in the role of NAOs. In addition to the financial and technical management role they had in the past under Lomé, NAOs now also have to play a central role in the more holistic and strategic management approach that the new programming and review system implies. In effect therefore they are supposed to move more to the coordi-

nation of EC support and away from the nitty-gritty of financial procedures and hands on implementation of programmes. In turn the management of specific programmes using EDF funds should be moved to the appropriate line ministries.

ECDPM work on the role of NAOs over the past couple of years⁵³ suggests that while there seems to be general agreement between ACP governments and the EC on the direction changes should take, it is not always easy for ACP governments to implement these changes. One reason, among others, for this is the specialist knowledge required to manage the complex procedures for EDF funding and the difficulties of finding enough skilled personnel. The reality is therefore that many NAO offices still operate much as they always did under Lomé.

As the EU seeks to implement the Paris agenda and move towards greater ownership and alignment with ACP country policies and procedures, this question of the role of NAOs will need to be tackled. It may even be that the time has come to go even further and seek to disband the system of NAOs dedicated to managing EC assistance and replace it with single government offices that coordinate all donor funding, using national procedures, and in liaison with the appropriate line ministries running national development programmes to which donor funds are contributing. As direct budget support or sector-wide and programme support become increasingly the rule rather the exception, this is also likely to become more and more the logical way forward.

3 Conclusions

Looking back at the management of the EDF over the past five and a half years to the start of Cotonou it is hard to disentangle the changes brought about by the CPA itself and those that stem from the Commission's Reform of EC External Assistance. Clearly the two processes were also complementary and indeed the rationalisation and more 'professional' approach that Cotonou introduced really required many of the changes of the Reform to be put into effect. These were also in line with the then emerging new development cooperation paradigm with its strong emphasis on aid effectiveness and performance that crystallised in the Rome and Paris Declarations.

Clearly the combined effect of these changes has been first to largely restore the credibility and legitimacy of EC aid. They have also apparently 'solved' the 1990s problem of large amounts of unused EDF funds which had become a constant lead weight that often detracted from good ACP-EU cooperation and relations. Moreover, a few ACP countries have been able to move ahead faster than perhaps expected, their good performance in financial

53 Frederiksen, J., Hasse O, Ornemark C & Baser H, forthcoming, Striking the right balance: The future of NAOs in ACP-EU cooperation, ECDPM Discussion Paper

management and programme implementation being rewarded with increased allocations. On the other hand we do not seem to have progressed as well on *the question of ACP ownership of the cooperation* nor indeed on the question of mutual accountability. The programming and review processes have not been as 'joint' or 'mutual' as many would like. In the pursuit of higher quality and greater effectiveness the programming work at different levels has become increasingly complex and demanding, which places a heavy strain on ACP capacities. Reducing the number of instruments in the EDF has simplified things, but EDF procedures are still proving too cumbersome and the new trend of creating EDF funded facilities both introduces new complexities and tends to place more management control in European hands.

The degree to which it has really been possible to build a more *strategic approach* to ACP-EU cooperation on the rolling programming and performance based system is also questionable. The shift towards a more strategic role for NAOs has been slower than hoped and procedures that remain cumbersome militate against such a change.

The 2000-2006 Cotonou balance sheet on EDF management therefore shows a mixed result with some real improvements, but also areas where objectives have not been achieved. ACP ownership of the development cooperation process is probably the greatest victim and in this respect there is still much work to be done to adjust ACP-EU practice to the precepts of the Paris Declaration.

g. EDF Management: A view from the field

Vibeke Rasmussen and Jason Scott

1. Programming in Cotonou: what changed from Lomé?

ACP EU cooperation under the European Development Fund (EDF) is heading for its 50th anniversary. The 1957 Treaty of Rome (Articles 131 and 136) provided for its creation with a view to granting technical and financial assistance to African countries. Since then nine EDF have been implemented under the Yaoundé, Lomé and Cotonou Conventions. This paper prepared for ECDPM's Cotonou Seminar on the occasion of the Centres' 20th Anniversary, will focus on EDF management and performance questions.

Every EDF has had its innovations and changes but the changes from the Lomé Convention to the Cotonou Agreement have been substantial. Over time the European Commissions' development cooperation has moved from the "quick fix" blue print approach characterised by investments in infrastructure projects to a more holistic macro economic approach targeting interventions such as budget support and sector wide approaches. These changes have been supported with academic arguments arising out of the growing body of experience that the five decades of European development assistance has generated.

The Cotonou Agreement signed in June 2000 streamlined the EDF and introduced a system of rolling programming allowing for greater flexibility and giving the ACP countries greater responsibility. Currently the first EDF (9th EDF 2002-2007) under the Cotonou Agreement is coming to an end while the programming of the next EDF (10th EDF 2007-2013) is underway. One effect of "rolling programming" is that in order to avoid gaps between the various EDFs the end-of-term review of the 9th EDF started immediately after the mid-term review and was in some cases still ongoing when the programming of the 10th EDF began.

Box 1: Cotonou programming reform:

Programming Reform

- Resource allocation. Resources are allocated on the basis of an evaluation of needs and performance. In order to allow for planning of resource flows, each ACP State and region receives an indication of the amount of resources it may benefit from during a five-year period. The allocation is, however, not an entitlement and may be reduced or increased at the mid-term and end-of-term reviews of the Country Support Strategy.
- The criteria for the evaluation of needs⁵⁴ and performance⁵⁵ have been negotiated between the ACP and the Community and are used for a shared assessment.
- Programming: results-oriented. One single Country Support Strategy (CSS) for each ACP State, covering implementation of all operations financed from the grant envelope is established in dialogue with the recipient country. The distinction between programmable and non-programmable aid is thus abandoned. The principle of sharing the CSS with the recipient country is a departure from the previous approach, where the Community formulated its support strategies unilaterally. The CSS shall include an analysis of the political, economic and social context of the country and outline the country's own development strategies. It shall also pay close attention to the activities of other donors. On the basis of this analysis, a suitable orientation for the use of Community aid will be pinpointed. The support strategy shall focus on a limited number of sectors where the Community is deemed to have a comparative advantage. The Community can also decide to co-finance operations in sectors where another donor has the overall responsibility for policy dialogue and implementation. The CSS is complemented by an operational Indicative Programme that covers the operations for which the Community resources will be used and provides a timetable for their implementation. A flexible and regular review mechanism makes it possible to continuously update the CSS, the volume of resources and the indicative programme to match developments in need and performance. An annual operational review, consisting of a stock-taking exercise summarises the results of regular dialogue with the recipient country and extends the operational programming perspective for the coming period.
- The regional programmes are also subject to a system of rolling programming. A Regional Support Strategy (RSS) and an operational indicative programme are established by region and are subject to regular review. However, the criteria for needs and performance are different – the performance is measured according to the progress and prospects of regional cooperation and integration. It should also be noted that there will be no annual review of these programmes, but only a mid-term and end-of-term review.

Source: European Commission: http://ec.europa.eu/comm/development/body/cotonou/overview_en.htm#Heading11

54 Needs criteria include per capita income, population size, economic and social development indicators (Human Development Index), level of indebtedness and dependence export earnings.

55 Performance is assessed on the basis of: Progress in implementing institutional reforms; Country performance in the use of resources; Effective implementation of current operations; Poverty alleviation or reduction; Sustainable development measures; Macroeconomic and sectoral policy

The Cotonou Agreement is a partnership agreement and programming is to be carried out in partnership; but can it ever be an equal partnership? The answer is no given the unequal power relationships between the European Union and ACP members, as well as within the ACP itself; but under Cotonou a key hope has been that through the programming exercise, there would be an enhanced sense of ownership of the process and, over time, partnership in the dialogue process. Within the context of the ACP nations, there has been different levels of experience of this effect reflecting the ACP nations diversity in terms of their capacities to engage in dialogue from a technical point of view, and from an economic point of view from the relative importance to their national economies of the resources which EDF brings to their economies.

Box 2: Partnership power and negotiation

Within the context of SADC, nations like Namibia and Botswana, with strong technical capacities and resilient economies have a very different view of their “partnership” with the EU. It is fair to assume that their “need” for the relationship is less important, than say Lesotho, or Malawi where, economic circumstances and capacity constraints make “equal” partnership a goal still to strive for more than a reality waiting just around the bend. In these less able partners the strategic goal is often to get to an agreement to ensure that programmes continue and vital resource flows are maintained. Whereas for the stronger ACP nations, partnership is of course more equal. Such countries are not afraid to lobby hard for issues which they deem important. Alternatively they will simply ignore issues that the EU feels it has significant leverage on, for example Botswana’s insistence of maintaining the death penalty on its statute books and exercising its sovereign right to apply this sentence.

Positive changes

The changes in the programming style of Cotonou were significant and had some positive aspects and effects;

- *Resource allocation mechanism:* Resources are now allocated on the basis of an evaluation of needs and performance and in particular that the allocation is not an entitlement, came as a unpleasant surprise for many (in spite of being clearly stipulated in the negotiated Agreement) when the programming exercise for the 9th EDF started in 2000-2002, but now the second time round, with EDF 10, it has not caused so much upheaval.
- *Criteria for Resource Allocation:* There is probably a fair amount of suspicion among the ACP that the calculations of the evaluation criteria of needs⁵⁶ and performance⁵⁷ are not necessarily open and fair in spite of them being negotiated between ACP and EU.

56 Needs criteria include per capita income, population size, economic and social development indicators (Human Development Index), level of indebtedness and dependence export earnings.

57 Performance is assessed on the basis of: Progress in implementing institutional reforms; Country performance in the use of resources; Effective implementation of current operations; Poverty alleviation or reduction; Sustainable development measures; Macroeconomic and sectoral policy

- *Programming Reform:*
 - o **One single Country Support Strategy (CSS)** for each ACP State, covering implementation of all operations is established in dialogue with the recipient country. The distinction between programmable and non-programmable aid is thus abandoned.
 - o A main issue here was the **focus on a limited number of sectors**. Although this has caused some “irritation“ in some ACP countries it has been a positive development moving toward creating the critical mass of capacity and investment and making more effective use of limited human resources on both sides.
 - o The possibility that the Community can also decide to **co-finance operations** in sectors where another donor has the overall responsibility for policy dialogue and implementation has also been a positive change as it allows for more efficient use of available resources for a country/region in line with the 2005 Paris Declaration on Aid Effectiveness. This has also begun the vital and long agreed upon need for donor development partners to move towards a harmonized and coordinated donor approach, evidenced for example through multi-donor funded SWAPs in the health sector in Malawi, and through NICE (National Initiative for Civic Education) in Malawi as well to name but two.
 - o **Sharing the CSS/RSS** with the recipient country is a positive change with respect to the previous approach, where the Community formulated its support strategies unilaterally. Whilst the level of partnership differs between ACP member states, it has been a positive move towards encouraging transparency and ownership.
 - o The inclusion of a political, economic, and social analysis in the CSS/RSS, combined with an **outline the country’s/regions own development strategies** has been another positive aspect which in some cases have stimulated ACP partner governments/regions to review their own strategy, suggesting that the production of a more holistic CSS/RSS has been able to stimulate some critical strategic policy analysis. This also very much promotes ownership
 - o **“A flexible and regular review mechanism** makes it possible to continuously update the CSS, the volume of resources and the indicative programme to match developments in need and performance.” On paper a good idea, but the reality is that it is difficult to find the time for this.
 - o **“Regular reviews” for the regional programmes** were another a good idea but turned out, at least in Eastern and Southern Africa to be absurd, as the disbursement was very low mainly due to lack of resources in the EC in dealing with the RIPs, something that was officially acknowledged by the Commission at the mid-term review.
- The extensive consultation with the private sector and the Non State Actors (NSA) that is required is also a good thing, but it is very time consuming. Involvement of NSAs at the regional level also proved to be a bit problematic although the principle is justified.

The strength and advantage of a more focused and holistic approach to programming is the opportunity it gives to see and incorporate connections between specific sectors and countries, i.e. the three dimensions (politics, trade and development). It is an approach that is both integrated and sectoral and should allow operations to combine many aspects of cooperation (economic, environmental, social, etc.) in order to ensure that aid is better targeted.

Box 3: Adopting a holistic approach to programming

A case in point is the Horn of Africa. There are several important and interrelated cross-border and cross-cutting challenges that need to be addressed systematically such as:

- governance and security,
- religious fundamentalism,
- migration and refugees,
- proliferation and misuse of small arms and light weapons (SALW),
- management of water resources,
- pastoralists and seasonal migration, and
- food security.

The problems are exemplified by the 2006 drought affecting mainly parts of Southern Ethiopia, Kenya and Somalia where Somali tribes are concentrated. The chronic food insecurity was caused by the failure of consecutive short and long rains since 2001 and political choices that have left such regions largely untargeted and inaccessible by Government development programmes. Similar problems exist in Northern Ethiopia /Djibouti where Afar nomads live and in Darfur, Sudan, where drought, food insecurity and land ownership issues combine to exasperate ethnic differences and so become contributing factors to the evolution of a major armed conflict. This demonstrates the importance of a holistic integrated, approach that is required in the programming exercises preferably in close cooperation with other donors. The “old” approach where we do either food security and/or conflict prevention as two separate programmes or even sectors will not be an efficient way of tackling such inter-related and complicated issues as faced by the Horn. The gradual move towards a holistic analytical perspective appears to be a major step to better understanding and diagnosis as well as a coordinated response to needs.

Challenges encountered

Whilst the move away from a blueprint approach is to be commended, and shifting emphasis to a more process oriented stakeholder inclusive approach to programming is beneficial, it is also pertinent to note some key challenges that this move has highlighted.

The approaches adopted by the EDF have consistently been adapting to trends in academia in the fields of economic development. The many changes in Cotonou are the prime evidence that, from an academic point of view at least, all the principles such as rolling programming, consultation, ownership, sector analysis, cross cutting themes etc are justified

and needed, but they are also very resource thirsty for the partners and that is often a problem. As a result the dynamism of cooperation between the Commission (both Headquarters in Brussels and the Delegations) and its partners in the ACP is consistently changing, some would say developing, but with little opportunity for the various stakeholders to settle into a relationship where there is equal understanding and knowledge of the management procedures.

Secondly, and linked to the first point, as the tools of partnership and cooperation have become more participatory and sophisticated they have become much more resource thirsty in human resource terms, requiring greater levels of competencies which creates challenges for all partners.

Programming can easily seem to be ‘something the EC needs to do’, since Commission Delegations understandably have to justify development aid expenditures. Too often, the corollary is that national counterparts have limited or no involvement (or interest) in such activities. Arguably this pattern is inevitable given the resource imbalances and consequent unequal power relationships between the EC (and other donors) and the ACP recipients in the development ‘business’.

The experience so far of rolling programming and performance based reviews is that it was a wake-up call, and a necessary one⁵⁸. But it is also clear that it requires substantial well trained human resources, which often remains a problem for both sides. Moreover, whether the reforms will lead to more efficient and effective use of funds and enviably lead to poverty reduction remains questionable!

Ownership has been and remains a challenge and is intrinsically linked to the capacity and resource debate. Without the required resources and capacity it is difficult to engage meaningfully in the various tasks, both in the context of donor cooperation but also in terms of developing and implementing nationally owned strategies. For example recent figures from Malawi showed that in a Ministry 55% of professional posts are vacant and of the remaining 22% are filled with people with one degree and 23% are filled with people with no tertiary education.

58 Two major problems were encountered in Lome; 1) There could be gaps between EDF's and 2) since allocations were not related to performance many countries "kept" EDF funding as a reserve and spent other donor funds first. Mozambique is an example of this.

2 Management and decentralisation

Reform of EC external assistance

During the 1990s, the European Commission faced severe internal and external criticism of its growing external assistance programme. In response, the Commission launched in 1999 an ambitious reform programme, aiming at eliminating structural constraints related to several issues: unclear and divided responsibilities, persistent staff shortages, and excessively complex administrative procedures. The change in management approach was the most far reaching since the first Lomé Convention and by 2005 the devolution process was more or less complete and management of EDF had been decentralised (devolved) to the Delegations and in some instances more responsibility had been passed on to the NAO level. Many new positions were created (officials and contract) and about half of these new official positions were for finance and contract specialists for which there is no tradition of external postings⁵⁹. The intention and rationale for devolution was fine as it would (a) contribute to a better and more effective administration and increased aid effectiveness and save time; (b) bring the decisions closer to the ACP partners; (c) give more credibility, prominence and responsibility to the Head of Delegation, and (d) require the Head of Delegation to exhibit a much greater range and level of management competencies. In some countries – Botswana could perhaps be cited as a good example – it has helped to promote further ownership.

But problems such as cumbersome procedures⁶⁰, slow disbursement in some regions and insufficient human resources do remain. This can be illustrated by an example: a financing proposal was developed in 2004 for a regional project. It was a long and difficult process since the EC and the regional partners had different ideas of what the action should entail. Agreement was reached with the Delegation but once it reached the services in Brussels it was blocked by the iQSG and returned with comments. This happened twice and both times the response time was lengthy. In autumn 2006 the financing proposal was still in Brussels, the message conveyed being that the EuropeAid finance and contracts unit (AIDCO/C/5) have insufficient staff to examine all the proposals to go to the EDF within the normal time period. Involving Delegation and NAO/RAOs in the iQSG could be a way of increasing ownership and quality and expediting the approval process.

59 Ref. Frederikson, J, and H. Baser. 2004. Better aid delivery, or deconcentration of bureaucracy? A snapshot of the EC's devolution process (ECDPM InBrief 10). Maastricht : ECDPM

60 A separate paper could be written about the obstacles caused by the financial procedures, eg. low threshold for when to tender, procedures relating advances and to execution of payments both relating to Direct labour (Programme Estimates) and to contracts.

Another challenge relating to management is that from the ACP side the requirements to engage and benefit from EDF resources are often perceived as being “too high” given the limited human resources often available in the central administration as well as an entrenched view from within that “we wish to decide for ourselves” – i.e. not to be told what and critically how to go about using EDF funds.

For example in 2004 a Director in a regional organisation troubled by conflict pointed out that much as he needed the funds the EC for his work, he would not/could not allocate time to the project preparation because he thought that what little time he had was better spend on working with other more flexible donors both vis-à-vis content, form, size and procedures. The director invested his time in a project in the same sector with a bilateral EU member state donor – and this project was up and running within approximately a year. Meanwhile he left it to his staff including the TA to work on the EDF project through out the preparation process. Two years later the project is still not approved – he feels he has been proved right while the EC has labelled him “not serious” – a classic catch 22.

Capacity constraints

Many of the NAOs/RAOs offices and their line ministries lack the capacity, resources and/or interest to fully engage in the exercises – be it programming, review, project development or M&E. This is not helped by the perception that even if an NAO/RAO office were to take ownership (without the assistance of technical assistance), the EC would most likely rewrite and amend or even reject a lot of the content as it would not fit in the current thinking in the Commission of what the real needs/problems are!

This in turn raises the question of the use of long-term Technical Assistance. On the one hand it assures the procedures are followed and that the quality of the documentation is “acceptable” to the EC; but on the other hand it can inhibit ownership and opens up any process that is facilitated by TAs to the allegation that the process has been driven by an “outsider” following another agenda, and secondly there is some risk that long-term TA can delay institutional capacity building.

“Capacity building” is often mentioned as a solution but unfortunately often without detailed analysis of what and how exactly the capacity should be built and over what time frame or scale. Is it just providing financial support for salaries, vehicles etc, a view still maintained by some, or is it training, and provision of limited additional staff? One of the major challenges is that ‘capacity’ is a poorly understood concept. It is not yet a well defined area of development practice among the various professions involved in development. Nor

is there a generally accepted definition of ‘capacity’ in the literature.⁶¹

Recent experiences are mixed. In one regional organisation capacity development investments and approaches have included internal assessments of administrative systems and internal procedures leading to funding of posts which were identified as of strategic importance, in this case qualified accountants, and finally investment in an institutional review with external consultants. Impacts remained limited even after 3 years but incremental progress was made in terms of developing a long-term plan with a budget to support capacity development.

This illustrates that organisation development and institutional capacity building takes time and needs, above all else, to be combined with steadfast unwavering commitment from the highest level to the process to engender sustainable ownership and the allocation of appropriate human resources from all parties for change to occur. This is especially so in cultures where a high-power distance relationship⁶² exists – as is the case in many African cultures, where for sustainable change to be instigated and institutionalised, the change process has to be adopted and driven by the leader of the organisation.

The financial cost of this long term approach may be relatively moderate annually, but progress is made through developing medium to long term institutional partnerships which outlive the management trends and the staffing cycles that currently impact collaboration.

National & regional variations

It must be emphasised that the level of problems varies between regions and countries. At the regional level it is important to take into account the diversity of the regions and their regional organisations. While each organisation has its own core competences according to the specificities of that region and the history of the organisation i.e. trade, conflict resolution, environment and natural resources or even broad based regional integration they also differ in the institutional set up and capacity to handle EDF, and other procedures. Similarly for countries where the capacity and approach differs substantially even within the same region e.g. Botswana, Angola and DRC.

61 A study by the European Centre for Development Policy Management (ECDPM) defined capacity as ‘that emergent combination of attributes, assets, capabilities, and relationships that enables a human system to perform, survive and self-renew’. Based on 18 case studies of organisations and networks around the world, the study concluded that there are multiple dimensions of ‘capacity’.

62 Hofstede, G. (1980) *Culture’s Consequences: Comparing Values, Behaviours, Institutions, and Organisations across Nations*. 2nd Ed. Thousand Oaks, CA. Sage.

The EC is well placed, with its own knowledge and experience of the challenges of creating “unity” out of “diversity” whilst respecting the principle of subsidiarity, to appreciate that the extent of coherence differs according to the complex national, sub-regional and regional goals and strategies of the various interlocutors (NAOs, RAOs and AU).

3 Remaining problems and the way ahead

Taking into consideration the lessons learned and modernization and innovations in development economics, international cooperation, and globalisation; and the move to a more holistic approach, it appears that the change both in the programming style and in the management has overall been beneficial.

One main remaining challenge is the question of ownership which is intrinsically linked to the question of capacity and resources. Everyone agrees on the importance of ownership and thus the principles of the Paris Declaration. However, on the other hand, lack of ownership due to lack of capacity must not become an impediment for donor assistance.

The problem of lack of human resources on both sides to deal with a more resource thirsty approach, must be addressed at two levels; on the EC side where adequate human resources should be made available⁶³ and on the ACP side where institutional capacity building must be taken into account in public sector reforms as well as in all other donor related activities.

Well qualified human resources are in high demand in the western world and in Europe in particular there is a lot of focus on Human Resource Development to meet the increasing demand for labour with a high degree of technical, ICT and management competencies. In many ACP countries the problem is similar; there is a shortage of well educated professionals but for other reasons: either because they are simply not there or because they have left for better opportunities abroad – or moved to better pastures in the private sector. Therefore there must be concerted efforts and focus on human resource development initiatives.

Ideally the financial procedures should also be made more user friendly. This could be done while still ensuring the required levels of control. In the long run you can not regulate your way out of the risk of corruption – there has to be some level of trust.

In conclusion an important part of the solution lies in the intent of the Paris Declaration on Aid Effectiveness. Increasingly making use of the recipients’ rules and procedures as is being

⁶³ While devolution has brought major increases, the ratio of EC staff to disbursements is still lower than for most development organisations. In the European Union, only Austria has fewer staff per 10 million euros expended.

done in the Contribution Agreements is a case in point. More joint programming among donors and the EC and the EU Member States would also be an important step.

h. The Cotonou Partnership Agreement: A way forward in a changing world?

Paul Engel, Jean Bossuyt, Geert Laporte & James Mackie

Introduction

The first series of workshops in the ECDPM seminar has shed light on what happened to the main innovations of the Cotonou Partnership Agreement and their implementation. During the second series our purpose is to assess possible answers to the main question posed during the seminar: *Will the Cotonou Partnership Agreement remain relevant in a rapidly changing world?* Will it be superseded by alternative arrangement, bilateral, regional or otherwise? And for the partnership to be relevant in the future, what changes should be made to respond adequately to these global trends and changes?

To kick off the debate we will briefly sketch out a number of general trends in global relations. We have attempted to focus on those that, over the past few years, have increasingly impacted upon international development and upon international development partnerships in particular. It is evident that to maintain its relevance, the Cotonou Partnership Agreement needs to find answers to these challenges at the very least. Participants are encouraged to weigh, specify and complement our understanding of these international trends in order to create a comprehensive picture of the challenges faced in EU-ACP cooperation over the next decade; and then to use this as a basis for answering the key questions of our debate.

1 A rapidly evolving global development agenda

1.1 *More integrated international relations*

First, international events and trends in the areas of international relations, peace and security, rehabilitation, migration, and trade forcefully challenge the ‘splendid isolation’ that has so far characterized development. The dividing line between development and other external policy areas tends to become thin, if not blurred. Since Hong-Kong we have grown accustomed to ‘aid for trade’ as a compliment to trade negotiations. Even so, the Doha ‘Development’ Round has stalled and its relevance to development objectives has not been established beyond reasonable doubt. In the meantime, the erosion of preferences for developing countries continues and regional trade agreements, in particular North-South,

are proliferating. Besides, the awareness that development is a sine qua non for peace and security and, by the same token, that peace and security are a precondition for development, is widely accepted. In the words of the departing Secretary-General of the United Nations, Kofi Annan, who refers to one of the builders of the United Nations, former US President Harry S. Truman, *'security must be collective and indivisible'*⁶⁴.

The latest entrant in this debate, migration, proves no exception either: to stem migration, local development in the countries of origin needs to be effective and for development to be effective, migration should be managed wisely. As a result, development is "cross-wired" as never before between North and South, East and West and across areas of domestic and international relations that were considered separate before. In the words of the European Commissioner for External Relations: *'the truth is these distinctions [that is: between development and foreign policy, or foreign and domestic policy] are losing their meaning. Or perhaps I should say, they have already lost their meaning.'*⁶⁵ This broadening of the scope of the development agenda puts development partnerships under a lot of pressure, and creates new challenges, political, institutional, financial and programmatic.

1.2 Partnerships in a multi-polar world

A second trend that catches the eye is the increased significance of the 'emerging powers' China, India and Brazil in matters of development. From a world roughly organized along a North-South axis, during the first years of the new Millennium *a more complex and more diffuse multi-polar world emerges*. In this world the multi-lateral system is confronted with serious limitations while it seeks to regroup and reposition itself and regional, sub-regional organizations acquire new importance, nurtured by a wide range of concerns running from war, peace and security and the use of natural resources, to global health, trade and the environment. One of the strongest examples today is the African Union, uniting the whole of Africa in an alliance for political, economic, social and cultural progress unprecedented within the continent. But the same applies to the European Union who through the *European Consensus on Development*⁶⁶, *EPAs*, *the EU-Africa Strategy*, and other regional strategies seeks a stronger profile in its relationships with developing regions. Development partnerships are challenged to diversify and adapt and to recognise and create space for the specific concerns of partners that are regrouping along diverse interests.

64 Secretary-General's address at the Truman Presidential Museum, 11 December 2006; <http://www.un.org/apps/sg/sgstats.asp?nid=2357#>

65 Source: Speech by Commissioner Benita Ferrero-Waldner, EU Commissioner for External Affairs and European neighbourhood Policy: 'Human Security and Aid Effectiveness: The EU's challenges.' London, October 26 2006.

66 For more information on the European Consensus on Development, you may visit this site (accessed January 20 2006): http://europa.eu.int/comm/development/body/development_policy_statement/index_en.htm

1.3 *Speeding up the pace of development*

Thirdly, answers are sought on how to speed up the pace of economic growth in many developing countries and to overcome the *lack of positive development impact* of globalisation for the majority of the world's citizens. On-going social, political and economic exclusion of millions of people, intensified by armed conflicts, natural and man-made disasters is recognised as restricting the opportunities for most people in developing countries to build decent lives for themselves. The 2000 Millennium Declaration and the Millennium Development Goals, represent a global commitment to specific goals and targets, and a minimum standard on what international players expect to achieve from development partnerships. At the same time, a more in-depth scrutiny of national and regional perspectives reveals an ongoing debate on the nuances of which to address first: poverty reduction, human rights and the rule of law, infrastructural and economic development and/or trade.

In addition, the 2005 Paris Declaration on Aid Effectiveness⁶⁷ resolves to improve aid effectiveness by further strengthening country ownership of cooperation programmes; by increasing programme alignment with partner countries' national development strategies, institutions and procedures; by harmonising donor actions; and by ensuring better management and mutual accountability. The Paris Declaration is signed by more than 120 countries, international and civil society organisations, amongst which the majority of the EU and ACP states. As a result, development partnerships are now not only bound to specific goals and measurable targets; they are also committed to improving country ownership, harmonisation and alignment in order to increase their efficiency and effectiveness. Even so, many questions remain regarding the effective implementation of these commitments; and about for example, the role of new global donors, both 'emerging powers' and large private foundations.

1.4 *Finance for development*

A fourth noteworthy trend is in *development finance*. Led by debt relief official development assistance (ODA) rises sharply, even if it still falls short of globally agreed targets⁶⁸. The European Union leads, already contributing more than half of global ODA and with a commitment to increase this amount to 0.7% of GNI by 2015. The use of new aid modalities such as budget support, specialised funds, co-financing, etc. will have to be intensified to even come close. At the same time, *global development is clearly no longer just about ODA*. Only in sub-Saharan Africa, according to estimates from the World Bank, do official aid flows

67 The Paris Declaration is available online at <http://www1.worldbank.org/harmonization/Paris/FINALPARISDECLARATION.pdf>

68 Source: 2006 Millennium Development Goals Report, United Nations, p22.

still outweigh foreign direct investment, remittances and other long-term private financial flows. But private flows of course do not reach all countries equally. In 2003, 27% of foreign direct investment reached developing countries, but only 3% reached the low-income countries and remittances reach only those few countries with considerable numbers of immigrants abroad. As for the ACP, in an estimated one third of the member states ODA represents 20% or more of total official resource inflows; in two thirds, ODA is far outweighed by trade related and private financial inflows⁶⁹. Given the global consensus that development aid does make a difference, what has to be done to adjust its role and function to this new financial reality? Again, in the light of these realities development partnerships are challenged to reassess their role and perhaps review the precise type of contributions they aim for in regional and national development processes.

1.5 *The quality of development partnerships*

A fifth trend worth mentioning here is that the relationships between donors and developing countries are slowly but perceptibly changing. *Political dialogue and governance* are acquiring new importance, as a basis for legitimacy, mutual accountability as well as conflict prevention and resolution. Again in the words of Kofi Annan: “governments must be accountable for their actions in the international arena, as well as in the domestic one”⁷⁰. At the developing country level, inclusive multi-stakeholder development programming seems to be more frequent and practical examples of increased country ownership and joint programming can be highlighted, for example in Tanzania.

On the donor side, work on *policy coherence for development (PCD)* in Europe, that is, to ensure that the objectives and results of development policies are not undermined by those of other policies, whether internal, external, Southern or Northern, shows progress. PCD seems to have acquired a permanent place on the priority list of subsequent EU Presidencies and the DAC Peer Review system and has become the object of practical enhancement measures by individual member states. Complementarity between the bilateral programmes of EU member states and with the EC finally seems to be on the agenda. As a result, development partnerships are increasingly challenging in terms of ownership, mutual accountability and implementation. Policy statements are clearly seen not to be enough anymore, implementation and follow-up need to be ensured.

69 Balance of payment data, Sievers, H. /ECDPM (2005).

70 Secretary-General's address at the Truman Presidential Museum, 11 December 2006; <http://www.un.org/apps/sg/sgstats.asp?nid=2357>

2 The Cotonou Partnership Agreement: continued pertinence in the light of global changes?

What may the above trends mean for the central questions of our seminar: *How can Cotonou remain valid and politically important in a context of major and rapid changes? What will be the future of the ACP?* The seminar may specifically explore ways in which the application of Cotonou, or some of its provisions, may be improved to ensure its relevance to the development concerns of the countries of Africa, the Caribbean and the Pacific. To start with, three major initial questions may be raised:

1. *Can Cotonou adjust to the new global political realities? Can it become a stronger framework for international cooperation, covering the full range of relevant policy areas*

- o *On political dialogue:* Will the ACP and the EU each continue to attach the same importance to the relationship as in the past? Will ACP leadership be able to match European integration of external policies? Or will security issues, EPAs and migration undermine the ACP Group, and encourage the EU to articulate its interests with a narrower geographic focus (Africa, Latin America/Caribbean, European neighbourhood, etc.)
- o *On the scope of Cotonou:* From the outset Cotonou broadened the scope of the partnership including non-state actors and providing a framework for dealing with diverse issues such as trade, private sector development, security and even migration issues. Is this framework still strong enough? What are the new challenges, political, institutional, financial and programmatic?
- o *On centrifugal forces in a multi-polar world and the added-value of the ACP:* Will ACP (national, sub-regional and regional) leadership continue to prioritise ACP-EU relations? Will the partnership be flexible enough to diversify and adapt to the strong trends of regionalisation today, recognising and creating space for the specific concerns of its partners that are regrouping according to diverse interests? Will it accommodate and facilitate the rise of regional and sub-regional agendas and organisations, or will regionalisation and diversification of interests tear the ACP Group apart? How can a mutually beneficial partnership be established between the AU and the ACP? On the part of the EU, will there be complementarity between Cotonou and the new EC regional strategies for Africa, the Caribbean and the Pacific?

2. *Can the Cotonou provide a solid basis for increased aid effectiveness, by promoting good governance, alignment and harmonisation, policy coherence for development, coordination and complementarity amongst EU donors, strengthening local and national ownership and multi-stakeholder development programming in the ACP?*

- o *On governance and mutual accountability:* Will the Cotonou Partnership allow for the strengthening of partner country governance, donor transparency and mutual accountability?
- o *On harmonisation and alignment:* Will more intensive political dialogue between the EU and ACP regional organisations and countries result in greater respect for, and effective alignment with, region and country-owned development strategies? Will ACP leadership be able to reinforce regional and national development priorities in EU decision-making?
- o *On coordination and complementarity:* How can the EU members, the EC, the ACP and the AU best work together and complement each other? Should EU-ACP level coordination and complementarity be given greater priority?
- o *On policy coherence for development:* Should the use of Article 12 by ACP countries, on European policies that affect their development, be used more systematically?

3. *Will the Cotonou Partnership enable the EU to live up to its financial commitments and adjust to new financial realities?*

- o *On EDF procedures:* Can the EC/EU take the required steps to fundamentally reform EDF procedures so as to ensure their consistency with strategic development objectives and the requirements of effective aid delivery?
- o *On Aid commitments:* Will the EU be able to achieve its targets and adjust to increasing ODA volumes? If ODA to Africa is to double should EDF 11 not be at least double the volume of EDF 10?
- o *On 'shared competence':* Will the EU, Commission and Member States, indeed pursue extensive joint programming and a division of labour in order to rationalise and adjust their roles, also in relation to the relative importance of ODA inflow vis-à-vis other financial resource flows in most ACP countries?

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