

DISCUSSION PAPER No. 220

## How Brexit may affect ACP-EU relations: AN HISTORICAL PERSPECTIVE



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January 2018

### **SUMMARY**

The Brexit weakens the arguments in favour of a continued close association between the European Union (EU) and the Caribbean and Pacific ACP states like under the Cotonou Agreement. This is mainly because these states became associated with the EU as a direct result of the UK's accession to the European Economic Community in 1973. However, it certainly does not imply that there should be no more cooperation between the EU27 and the Caribbean and Pacific regions after the end of the Cotonou Agreement in 2020, but rather that the future relation should be based more on common interests than on colonial history. The Caribbean Economic Partnership Agreement (EPA) already covers trade and has an unlimited duration. It can be complemented by appropriate arrangements for development cooperation and political dialogue. Political dialogue between the EU and the Caribbean will further be part of the wider dialogue between the Community of Latin American and Caribbean States (CELAC) and the EU. There are similar arguments for a specific agreement between the Pacific region and the EU reflecting common interests and covering the pillars of trade, development and political dialogue.

As regards the African ACP states, Brexit does not diminish the case for continuing the present close association of the Cotonou Agreement. However, with the increased prominence and importance of the African Union for the EU in terms of political dialogue, cooperation and addressing common challenges, the future association between the EU and sub-Saharan Africa should be open to North African countries that are ready and willing to take part. In this way, a single ambitious framework could gradually cover the Africa-EU relation.



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## Acknowledgements

The author, an ECDPM Programme Associate, would like to thank San Bilal, Daniel Bach and Marc Litvine for many helpful comments on an earlier draft.

## Acronyms

AASM	Associated African States and Madagascar
ACP	Africa, Caribbean and Pacific Group of States
APF	Africa Peace Facility
ASEAN	Association of Southeast Asian Nations
AU	African Union
CA	Cotonou Agreement
CAP	Common Agricultural Policy
CELAC	Community of Latin American and Caribbean States
CEMAC	Economic and Monetary Community of Central Africa
CRNM	Caribbean Regional Negotiation Machinery
EAC	East African Community
EBA	Everything-but-Arms
ECDPM	European Centre for Development Policy Management
ECOWAS	Economic Community of West African States
EDF	European Development Fund
EEAS	European External Action Service
EEC	European Economic Community
ENP	European Neighbourhood Policy
EPA	Economic Partnership Agreement
EPG	Eminent Persons Group
ESA	Eastern and Southern Africa
EU	European Union
FLEGT	Forest Law Enforcement Governance and Trade
FTA	Free Trade Agreement
GSP	Generalised System of Preferences
JAES	Joint Africa EU Strategy
LDC	Least Developed Country
OCT	Overseas Countries and Territories
ODA	Official Development Assistance
OPEC	Organisation of Petroleum Exporting Countries
PNG	Papua New Guinea
SADC	Southern African Development Community
SDG	Sustainable Development Goal
TDCA	Trade Development and Cooperation Agreement
UK	United Kingdom
UN	United Nations
WTO	World Trade Organisation

## 1. Introduction

Since the referendum vote in the United Kingdom (UK) in June 2016 on leaving the European Union (EU), there has been a lot of debate about the likely effects of such an unprecedented and unexpected move. Most attention has been for the effects on the UK trade and economy, and on the economy of the rest of the EU, particularly the EU member states that trade most intensively with the UK. There has also been discussion on the post-Brexit trade relations between the UK and the developing countries.<sup>1</sup> But so far, rather less attention has been paid to the effects of the Brexit on the relations between the EU without the UK and the developing countries. It is generally assumed that these effects will be small. However, this may not be the case for developing countries that are part of the Africa, Caribbean and Pacific (ACP) group of countries associated with the EU through the Cotonou Agreement. The aftermath of the Brexit referendum coincides with the discussions on the future of ACP-EU relations, taking into account that the Cotonou Agreement (CA) will end in 2020. Possible scenarios for a follow-up to the CA are now being formulated and examined.

The Brexit will influence the trade of the ACP states with the UK and to some extent with the EU27. These trade effects can only be estimated taking into account the specific modalities of the Brexit, as well as the future trade regime between the UK and the ACP states, which are not yet known. If the outcome would be a “soft Brexit” leading to a situation like for Norway that is part of the European Economic Area, the trade effects are likely to be small. If on the other hand there would be a “hard Brexit” and the UK would be outside the EU Single Market and customs union, the trade effects could be substantial. Between these outcomes there is a wide margin. More than a year after the vote it is not yet clear whether the Brexit will be soft or hard.

But apart from the trade effects of the Brexit, there will be changes in the overall political relations between the EU and developing countries, especially those with strong historical links to the UK. The Brexit may, therefore, affect the relations between the EU27 and the ACP group. With the UK no longer in the EU, the motivation on both sides for continuing a deep association between the EU and the Caribbean and Pacific countries may diminish. Both the Caribbean and Pacific states have only limited trade and other relations with the EU27. As regards some of the African countries, the motivation for continuing deep association with the EU may also weaken somewhat when the UK is no longer a member. But the effect for the African countries is likely to be much smaller than for the Caribbean and Pacific countries.

This paper provides an historical perspective to assess how Brexit could influence the future relations between the EU and the ACP group. Section 2 explains the origin of the ACP Group highlighting the role of the UK. The evolution of the ACP-EU partnership over the years is summarised in section 3. This historical overview sets the stage for examining some of the possible effects of Brexit for the ACP group in section 4.

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<sup>1</sup> See for example Mohammad Razzaque and Brendan Vickers (2016) "Post-Brexit UK-ACP Trading Arrangements: Some Reflections" Trade Hot Topics, issue 137 and Christopher Stevens and Jane Kennan (2016) "Trade Implications of Brexit for Commonwealth Developing Countries" Trade Hot Topics, issue 133. See also the series of essays in Emily Jones and Conrad Copeland eds (2017), "Making UK trade work for development post-Brexit"; in the All Party Parliamentary Group for Africa eds (2017), "The future of Africa-UK trade and development cooperation relations in the transitional and post Brexit period" Royal African Society; and in Max Mendez-Parra, Dirk Willem te Velde and Alan Winters eds (2016) "The impact of the UK's post-Brexit trade policy on development" ODI.

## 2. Origin of the ACP Group

The creation of the ACP group was a direct result of the UK's accession in 1973 to what was then called the European Economic Community (EEC). Already in 1958 the Rome Treaty installed a system of *association* between the EEC and the Overseas Countries and Territories (OCTs) of its founding member states. The association implied a preferential trade regime as well as financial assistance through the *first* European Development Fund (EDF). France was mostly driving this association setup. Belgium that also had colonial ties in Central Africa at the time of the signing of the Rome Treaty was supportive. The other EEC member states, in particular Germany and the Netherlands, were not so keen, but accepted the arrangement as part of the overall deal. During the early 1960s, much faster than anticipated when the Rome Treaty was signed, virtually all the OCTs in Africa became independent states. To accommodate the new situation a separate association agreement, the *Yaoundé Convention*, was signed in 1963 between the EEC and 18 newly independent countries in Africa, including Madagascar. They were referred to as Associated African States and Madagascar (AASM). The focus of the Convention was on trade relations between the AASM and the EEC, but there was also an important cooperation element and some political dialogue. Financial support was foreseen under the *second* EDF. The association arrangement mostly served the purpose of ensuring a smooth economic transition following independence and more generally to preserve the historic links between Europe and the newly independent states in Africa. In 1969 the Yaoundé Convention was renewed and the *third* EDF was set up.

Around the same time in 1968, well before the UK's entry into the EEC, the Arusha Agreement was signed between the EEC and the former UK colonies in East Africa: Kenya, Tanzania and Uganda. The Arusha agreement was reached following lengthy negotiations at the request of the East African States. It covered mostly trade relations. The main objective of the East African countries was to obtain a similar trade deal with the EEC as the AASM. There was also an agreement negotiated with Nigeria in 1966, but this was not implemented because of the war in Biafra.

The UK's accession to the EEC in 1972 created a new and complex situation for the Commonwealth countries in Africa and elsewhere. Becoming part of the EEC the UK would have to apply the same common external tariff as the other member states. This would drastically change the trade relations between these countries and the UK. During the accession negotiations the future trade regime between Commonwealth countries and the EEC was extensively discussed. The result was Protocol no. 22 annexed to the Accession Treaty "on relations between the EEC and the associated African and Malagasy States and also the independent developing Commonwealth countries situated in Africa, the Indian Ocean, the Pacific Ocean and the Caribbean." A list of 20 countries was included in the Treaty: 13 African countries (Botswana, the Gambia, Ghana, Kenya, Lesotho, Malawi, Mauritius, Nigeria, Sierra Leone, Swaziland, Tanzania, Uganda and Zambia), four Caribbean countries (Barbados, Guyana, Jamaica and Trinidad & Tobago) and three countries in the Pacific (Fiji, Tonga and Samoa). Protocol no. 22 invited the 20 listed Commonwealth countries to negotiate jointly with the 18 AASM a new association agreement with the enlarged EEC. The association option in the Protocol was restricted to small developing economies in Africa, the Caribbean and the Pacific, with the possible exception of Nigeria.<sup>2</sup> Apart from the past colonial link with the UK, the small economic size was the shared characteristic of the countries on the list. Larger and more diversified Commonwealth economies like India or Pakistan were not included.

Following the UK's entry into the EEC, negotiations on the follow-up to the Yaoundé Convention started with the original 18 AASM countries and the 20 developing Commonwealth countries listed in the

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<sup>2</sup> While Nigeria was by far the largest country on the list in terms of population, its economy remained relatively small until the early 1970s when the oil price went up drastically.

Accession Treaty. These negotiations took place in a period with considerable economic, political and developmental turbulence. In 1971 the Bretton Woods monetary system built around the US dollar came under pressure and it collapsed by 1973. Fixed exchange rates that had been the rule since World War II were replaced by floating exchange rates. Also in 1973 the Organisation of Petroleum Exporting Countries (OPEC) achieved a first steep rise in the price of oil. Because the world economy depended so strongly on OPEC oil, this was a big shock. At the same time cereals and minerals also became much more expensive. Moreover, from 1972 to 1974 there was a massive drought leading to widespread famine across the Sahel region. While the economic shocks were quite serious for the industrial countries, these countries had at least the means to cope and adjust. The effects on many developing countries were devastating because their possibilities to cope were very limited. As a result of these difficulties developing countries called for a New International Economic Order. In 1974 the United Nations (UN) General Assembly adopted a Declaration to that effect.

Against this challenging background it was remarkable that a far-reaching association agreement, the *Lomé Convention*, was signed in 1975 between the EEC and 46 African, Caribbean and Pacific (ACP) countries that were referred to as the ACP group. The 1975 *Georgetown Agreement* formally established the ACP group. The initial ACP group comprised the original 18 AASM, the 20 developing Commonwealth states listed in the Accession Treaty and another eight countries in Africa and the Caribbean.<sup>3</sup>

The inclusion of Caribbean and Pacific countries in the new Convention was a direct result of the UK's accession to the EEC. As for the African Commonwealth countries the situation was different. The Arusha Agreement with the East African countries demonstrated that they could have entered into an association agreement with the EEC even if the UK had not become a member of the EEC.

Back in 1975 the Lomé Convention was applauded as an innovative, comprehensive and progressive agreement that would help developing countries to overcome the economic and developmental challenges at the time. Lomé was considered as a serious response to the demands for a New International Economic Order. Like in the preceding Yaoundé Convention there were the three pillars of trade, development cooperation and political dialogue. Under the trade component there was free access to the EEC market of ACP originating products, except for products covered by the Common Agricultural Policy (CAP). For a number of CAP products there was, however, some limited market access, in particular for out of season fruits and vegetables. This enabled some ACP states to develop new export markets. There were also special trade arrangements in the form of protocols for a few important, but sensitive agricultural products. These protocols were linked to the preceding colonial trading system. The most important one was the sugar protocol.<sup>4</sup> It is important to observe that the commodity protocols were almost exclusively geared to exports from the Commonwealth countries that became members of the ACP group. One of the innovations in the Lomé Convention was the Stabex system. This was a mechanism to help developing countries cope with shortfalls of agricultural export revenues, mostly resulting from price fluctuations that were sizeable during the 1970s. A comparable system for mineral exports referred to as Sysmin was also included. Stabex and Sysmin were early forms of "programme" aid at a time when "project" aid was the rule.

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<sup>3</sup> These countries are: Ethiopia, Guinea, Guinea Bissau, Equatorial Guinea, Liberia and the Sudan in Africa as well as Grenada and the Bahamas in the Caribbean. They are small economies with a colonial link to a European state except for Ethiopia and Liberia.

<sup>4</sup> The sugar protocol provided a guarantee that exporting countries could sell a fixed quantity at the internal EU price. Because the EU price was usually well above the world market price this guarantee represented a large financial transfer. With the reform of the CAP the sugar protocol was gradually phased out. In order to support productivity increase and diversification in the ACP states that benefited from the protocol, the EU provided €1.2 billion for "accompanying measures" over the period 2007-2013.

## 3. Brief history of the ACP Group and ACP-EU cooperation

### 3.1. From Lomé to Cotonou

The Lomé Convention was renewed and revised roughly every five years and for each period a new EDF was formed. There were various modifications to the instruments and procedures, but the basic setup remained the same. The 4<sup>th</sup> Lomé Convention signed in 1990 was valid for 10 years. Around 1995, after 20 years of experience with the Lomé system, the European Commission initiated a thorough review process. The review covered the three pillars of the arrangement: trade, political dialogue and cooperation. The idea was that by the turn of century a renewed and improved cooperation setup would be in place. There were diverging views about the strengths and weaknesses of the Lomé Convention and whether or not to keep it. While there were success stories in a few ACP states, there were many more where progress was limited or even reversed, especially in sub-Saharan Africa where during the 1990s an unprecedented number of countries were affected by conflicts. The added value of the ACP group and of the Lomé system was questioned and alternatives were considered. One of the issues that came up was the limited trade and connectivity between countries from the three sub-regions: Africa, the Caribbean and the Pacific. For the Caribbean countries the trade and economic relations within the Western Hemisphere prevailed. Similarly, for the Pacific countries trade became oriented towards the Asia Pacific region. Trade between the EU and the Caribbean and Pacific countries was small and declining, and mostly taking place through the commodity protocols. In the UN system and cooperation framework the Caribbean was linked to Latin America and the Pacific was handled in the context of the wider Asia-Pacific region. Some development partners argued that the logic of the UN should be applied to the ACP, given that the colonial legacy became a distant memory.

An important milestone in 1995 was the conclusion of the Uruguay Round of multilateral trade negotiations and the creation of the World Trade Organisation (WTO). Among the novelties of the WTO was a stricter mechanism for dispute settlement. The special trade regime under the Lomé Convention was considered to discriminate in favour of a sub-group of developing countries (the ACP group) and became the target of trade disputes, in particular for bananas. Gradually it became fully clear that the Lomé trade regime was not compatible with the WTO legal principles. The EU as a champion of the WTO was therefore obliged to adapt the Lomé trade regime. The status quo was no longer an option.

Like the early 1970s when Lomé was initially conceived, the second half of the 1990s was a period of turbulence for international relations. Among the main reasons were the economic and political consequences of the end of the Cold War leading to the transition and disappearance of the “second” world and the break-up of the Soviet Union. At the same time, political instability and conflicts continued and aggravated in many parts of Africa. The Asian economic and financial crisis in 1996-97, which came as a thunder in a clear sky, increased the economic uncertainty. There was a widespread and sometimes violent backlash against the perceived effects of globalisation, often expressed during WTO or G7 meetings.<sup>5</sup> There was a feeling that the Uruguay Round did not benefit the poor countries. In this uncertain context the ACP and the EU “closed ranks” and decided to continue and deepen their partnership under the new *Cotonou Agreement (CA)* signed in June 2000. The CA implied some sizeable changes in comparison to Lomé. There was a deepening of the political dialogue and agreement on fundamental and essential principles for cooperation between the EU and the ACP. Violation of essential principles such as respect for human rights, democracy and rule of law would trigger a process with a view to restore respect for these principles. But if no improvements could be made, the violations would lead to sanctions or even

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<sup>5</sup> The present situation bears some similarity to the situation during the late 1990s. Again there is a backlash against globalisation, mostly in relation to rising inequality, migration and the spread of new technologies.

an end of the cooperation. This was fundamentally different from what happened during the period of the Cold War. There were also significant changes in the cooperation programme. Budget support became an important channel for disbursement of financial support to ACP countries. Non-state actors started to play a significant role, fully recognised under the CA.

But the change that “captured the headlines” was the phasing out of the special ACP-EU trade regime and its replacement by a new regime of WTO compatible *Economic Partnership Agreements (EPAs)* based on reciprocal free trade. The Cotonou text indicated that the EPAs would be worked out and negotiated over a period of seven years so that the new regime could start in 2008. During the interim period the Lomé trade regime would continue, covered by a special waiver obtained in the WTO. The waiver, obtained on the eve of the launch of the new Doha Development Round of WTO negotiations, ensured that there would be no new disputes about the ACP-EU trade regime. Before continuing on the story of the EPAs it is necessary to explain the evolution of ACP membership.

### 3.2. Expanding the ACP group

Since its origin back in 1975 the membership of the ACP group has evolved considerably. The number of ACP states went up from the initial 46 to currently 79. All the new members of the ACP group had similar characteristics as the original ones: the historic link with an EU member state and the small economic size.<sup>6</sup> Gradually all the remaining countries in sub-Saharan Africa that became independent joined the ACP group. These include the five Lusophone countries that had been ruled by Portugal. Zimbabwe joined in 1984 when majority rule was installed and Namibia became a member in 1995, a few years after it achieved independence. South Africa also joined the ACP group in 1995 following its first democratic elections. South Africa is a special case in the sense that it is not a small economy like the other ACP states, but rather a diversified industrial middle-income country. While South Africa became a member of the ACP group, signed the Cotonou Agreement and takes part in the work of the ACP-EU institutions, it is not eligible for the ACP trade regime nor for the EDF. Therefore, a separate Trade Development and Cooperation Agreement (TDCA) was concluded between the EU and South Africa in 1999.

In the Caribbean region some countries without historic link to the UK became members: Dominican Republic and Suriname in 1979, and Haiti in 1990. Cuba also became a member of the ACP group in 2000. Cuba is another special case, not because of its size or economic diversification, but rather because it did not sign the Cotonou Agreement. Cuba does not benefit from the EDF.<sup>7</sup> The Dominican Republic and Cuba are the only former Spanish dependencies in the Caribbean region that joined the ACP group. The Central American countries with comparable characteristics did not become part of the ACP group.

In the Pacific region six very small island states joined the ACP group in 2000 thereby bringing the number of Pacific ACP states to 14. The new members were: Cook Islands, Marshall Islands, Micronesia, Nauru, Palau and Niue. The Pacific states are by far the smallest ones in the ACP group in terms of population and economic size. In the year 2000 when the Cotonou Agreement was signed the average population of the ACP states was as follows: 12.7 million in Africa, 1.5 million in the Caribbean and 0.5 million in the

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<sup>6</sup> The Lomé Convention indicates that only states with an economic and production structure comparable to that of the existing ACP states can request accession. Accession needs to be endorsed by all ACP and EU members. Even though the accession provision is vague, it clearly excludes large diversified or industrial economies. Accession does not require a historic link with an EU member state even though this has generally been the case except for Ethiopia and Liberia.

<sup>7</sup> Cuba does not subscribe to some essential elements in the Cotonou Agreement like respect for democratic principles. Nevertheless, since 2007 Cuba benefitted from regional and thematic EU funding outside the EDF.

Pacific. The relative size of Papua New Guinea (PNG) with a population of 4.7 million still distorts the average. Without PNG, the average population becomes only 154,000. Moreover, the average population of the six new ACP members was a tiny 38,000. The most recent change in the membership of the ACP group took place when Timor-Leste joined in 2006. Even though Timor-Leste is in South East Asia, it is considered part of the Pacific ACP states. It fits the usual characteristics: it is a small economy and it was a Portuguese dependency in the past.

### 3.3. EPAs, a new paradigm

Getting back to the EPAs, their negotiation turned out to be a difficult and divisive process. It is much beyond the scope of this note to provide a thorough overview. Only a few key points are highlighted to explain the difficulties. First, in contrast to the previous ACP trade regime the EPAs had to be reciprocal, meaning that the ACP must also grant trade preferences to the EU. Even though there can be a good deal of flexibility in the sense that ACP liberalisation would not have to cover all goods and that there could be a very long transition period, the reciprocity requirement was seen as a shock for the ACP. Among civil society there was a widespread view that reciprocity was simply unfair and unacceptable for the ACP, no matter the legal requirements of the WTO. Second, the EU was keen to present the EPA negotiations as supportive for ACP regional economic integration. Hence, the strong preference of the EU to negotiate with groups of states that pursue regional integration. Each ACP could be in only one negotiating group. But especially in sub-Saharan Africa the situation of regional integration is quite confused with several overlapping and sometimes conflicting initiatives. It was hard for the ACP to establish clear negotiation groups. Third, the EU argued in favour of “deep and comprehensive” free trade agreements that would go beyond the minimum requirements of the WTO.<sup>8</sup> While there were sound developmental arguments for this, it was difficult for the ACP side to engage in the complex negotiation of such deep and comprehensive arrangements requiring expertise in topics such as intellectual property and standards. The ACP preferred a more modest and less risky approach. Fourth, there was a serious difficulty resulting from what happened at the multilateral level. In order to facilitate in 2001, the start of the new multilateral trade round, the Doha Development Agenda, the EU launched its so-called Everything-but-Arms (EBA) initiative. Under EBA the EU indicated to unilaterally remove all duties and quotas on imports of goods from the Least Developed Countries (LDCs), except arms.<sup>9</sup> This initiative reduced the incentive of LDCs to negotiate an EPA, because their preferential access to the EU market would remain unconstrained anyhow (even better than under the previous ACP regime). Of the 49 LDCs there are 41 in the ACP group and they are geographically spread across the ACP sub-regions. It became clear that all the ACP integration groups contained both LDC and non-LDC countries that face different incentives to negotiate an EPA. For example, the negotiation group with the members of the East African Community comprises one non-LDC, Kenya and four LDCs, Burundi, Rwanda, Tanzania and Uganda.

A further important change that must be highlighted is that the EPAs once agreed are for *unlimited duration*, regardless of the future of the Cotonou Agreement. With the EPAs the trade regime became effectively disconnected from the other ACP-EU cooperation pillars: political dialogue and development. This is a key difference in comparison to the Lomé system. The disconnection should not be misunderstood. It does not at all mean that development cooperation is not used for trade-related

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<sup>8</sup> “Deep and comprehensive” usually refers to an arrangement that goes beyond trade liberalisation in goods (the minimum required by the WTO) and that also deals with trade in services and a range of trade-related issues such as intellectual property, investment, standards and regulations. The main argument to go beyond trade in goods is that services trade and trade-related areas have become much more important over the past few decades.

<sup>9</sup> For a few sensitive agricultural products: bananas, rice and sugar there was a transition period that ended in 2011.

assistance. On the contrary, a sizeable part of cooperation funds has been earmarked for trade-related assistance in support of the EPA process.

The present situation as regards the EPAs can be summarised as follows. The EPA negotiations took much more time than the initially foreseen seven years. Only the Caribbean region succeeded in agreeing by 2008 to an EPA in the form of a deep and comprehensive free trade agreement (FTA). All the members of the Caribbean Community as well as the Dominican Republic signed the Caribbean EPA. It is interesting to see that EPA implementation started while the Caribbean trade with the US, Latin America and China was increasing in comparison to trade with the EU, which was affected by the 2008-2009 economic and financial crisis. In the past and particularly in the period of the Lomé Convention the Caribbean region benefitted from sizeable trade advantages with the EU, in particular because of the commodity protocols. These protocols implied larger financial transfers than the conventional development finance. While the importance of these special trade arrangements gradually declined, they most likely contributed to the creation of a pool of Caribbean trade expertise. This trade expertise was mobilised by the Caribbean Regional Negotiation Machinery (CRNM) that was used not only in the relation to the EPA negotiations with the EU, but more widely with other trade partners and in the WTO. The CRNM was a unique experience in the ACP group.

For the Pacific ACP countries there was only little motivation to negotiate an EPA, mainly because their trade with the EU is limited and because of the relatively large number of LDCs. Only a few Pacific states such as Fiji and PNG have a significant trade with the EU. Not surprisingly these two states have signed and ratified an interim EPA.

Turning to sub-Saharan Africa the situation is complex. Because of the issues highlighted above, the African states faced serious problems to set up negotiation groups along the lines of the regional integration initiatives. Gradually, five negotiation groups were formed. West Africa (ECOWAS member states plus Mauritania), Central Africa (CEMAC member states plus Democratic Republic of Congo and Sao Tome & Principe), the East African Community (EAC), the SADC group (Botswana, Lesotho, Namibia, Swaziland, Mozambique and South Africa) and a group of other countries in Eastern and Southern Africa (ESA) referred to as the ESA group.

The EPA negotiations with the five African groups moved very slowly. In 2014, with some pressure from the EU, EPA negotiations were concluded with three of the groups: ECOWAS, EAC and the SADC group. Except for the Southern Africa group, the further signing and ratification process is going slowly. In West Africa Nigeria is delaying the process, leading Côte d'Ivoire and Ghana to go ahead with the ratification of their respective individual interim EPA. In East Africa Tanzania is doing the same, so that only Kenya has both signed and ratified the EAC EPA.<sup>10</sup> In Central Africa so far only Cameroon signed and ratified an interim EPA. As regards the ESA group, Madagascar, Mauritius, Seychelles and Zimbabwe agreed to and started implementing interim EPAs, so that their access to the EU market can be maintained.

## 4. Some possible effects of Brexit for ACP-EU cooperation

There are various ways in which Brexit may have an impact on ACP-EU cooperation. By subscribing to the 2005 European Consensus on Development the EU and its member states have agreed on common objectives, values and principles for development policy. They further committed to coordination and

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<sup>10</sup> Tanzania indicated that its reluctance to ratify the East African Community EPA after having agreed was linked to the uncertainty resulting from the Brexit vote.

complementarity in their development cooperation. The UK has directly promoted complementarity between its bilateral aid programme and EU cooperation in several areas such as aid for trade, private sector development and forest conservation and governance. Under aid for trade the UK supported the EPA process in Africa. It is not straightforward and too early to assess how Brexit might affect such particular cooperation areas.<sup>11</sup> After Brexit the UK may continue its focus on these areas. Alternatively, the EU or the EU27 member states might take over from the UK.

But apart from the effects of Brexit on specific development cooperation activities in ACP countries, there are also possible effects for the overall setup or structure of ACP-EU cooperation given that the Cotonou Agreement ends in 2020. This section deals with the latter kind of possible effects.

#### 4.1. Reflections on the future of ACP-EU relations have started

Discussions on the future of the ACP-EU arrangements after 2020 started well before the Brexit vote. In various public discussions the views expressed ranged from a continuation with minimal adaptation of the agreement up to a fundamental rethinking of the whole setup.<sup>12</sup>

The European Commission together with the European External Action Service published a Communication on a renewed partnership with the countries in Africa, the Caribbean and the Pacific in November 2016. The paper concludes that “in view of the priorities, the changed context and lessons learnt from the implementation of the Cotonou Partnership Agreement, a simple rollover would not be able to deliver”. Three options are presented and the recommended option is for “an agreement with the partner countries consisting of *three distinct regional partnerships* with Africa, the Caribbean and the Pacific, with an opening for a closer involvement of other countries, under a *common umbrella*. The common umbrella would define the common values, principles, essential elements, and interests that underpin the cooperation between the parties, building on the significant *acquis* of the Cotonou Partnership Agreement.”

In September 2016 the European Parliament endorsed a Resolution on the future of ACP-EU relations beyond 2020. The Resolution argues for a new structure with a *common framework* that maintains the parts of the ACP-EU “*acquis*” that are universal in nature as well as *regional agreements* with Africa, the Caribbean and the Pacific. The Parliament recommends that the main work be carried out in these regional agreements that should be tailored to the needs and mutual interests between the EU and the respective regions.

The ACP Group has taken a number of initiatives to reflect on its future relation with the EU. One initiative involved an Eminent Persons Group (EPG) that produced its final report in 2016 “ACP: a New Vision for our Future”. The EPG report contains a comprehensive analysis of ACP-EU cooperation since its origin as well as many pertinent recommendations for improvements. As for the future setup, it recommends keeping the ACP Group as “a tri-continental organisation, utilising Regional Economic Communities as building blocks for intra-ACP trade and integration”. In March 2017 the ACP Group also produced an “Aide Memoire on Basic Principles for ACP-EU Relations post-2020”. The Aide Memoire states that “an ACP-EU post-Cotonou agreement should maintain the core geographic and geo-political character of the ACP

<sup>11</sup> One example is Forest Law Enforcement Governance and Trade (FLEGT). This is an EU initiative that received sizeable UK bilateral support. It covers many ACP countries that export forest products to the EU. The UK timber traders recently appealed to the UK government to continue its support for FLEGT after Brexit.

<sup>12</sup> In January 2016 ECDPM published a study on the future of ACP-EU relations. The report provides a detailed political economy analysis. It concluded that: “a mere adaptation of the existing policy framework seems a perilous option”. Subsequently, in September 2016 ECDPM prepared a more concise paper describing four scenarios for the future of ACP-EU cooperation. The paper contains some references to the Brexit. It recognises that the Brexit process “will inevitably impact on ACP-EU relations in ways that are not easy to predict”.

Group structured in six regions of Central, East, South and West Africa, the Caribbean and Pacific, while being open to different types of association with other developing countries”.

There is no assessment or reference in the recent European and ACP policy documents to the possible implications of the Brexit for the post-Cotonou arrangement. Nevertheless, Brexit affects some of the *foundations* of ACP-EU cooperation. This applies most strongly to the Caribbean and Pacific regions. The original association arrangements of the EEC back in the 1960s were restricted to sub-Saharan Africa. It was only after the UK's entry into the EEC in 1972 that these arrangements were extended to Caribbean and Pacific countries, based on their historical link with the UK. Other countries in the Caribbean region, without such a link to the UK like the Central American countries (Guatemala, El Salvador, Honduras, Nicaragua, Costa Rica and Panama), but with comparable developmental characteristics as the ACP states were not considered.<sup>13</sup> Over time the picture became slightly more diverse because a few Caribbean states without historical links to the UK, but with links to other EU member states, also became members of the ACP group. This was the case for the Dominican Republic, Haiti and Suriname.

#### 4.2. Possible effects for the EU relations with the Caribbean and the Pacific

Right from the origin of the ACP group the ACP states have been the most privileged partners of the EU, both in terms of trade concessions as well as for development finance through the EDF. This is well known, but what is less known is that within the ACP group, the Caribbean and Pacific states have been relatively privileged in per capita terms in comparison to the African states. This is partly because of their small population, the need to offer a minimum programme size to each country and the tendency for regional programmes to have equal cost per country. But it is mainly the result of the trade protocols of which Caribbean and Pacific states have been large beneficiaries.<sup>14</sup>

The Brexit diminishes the motivation for the EU27 to continue the privileged treatment of the Caribbean and Pacific states. This is because the Caribbean and Pacific interactions with the UK are relatively more intense than with the EU27 and because it was the UK that called for their association when it joined the EEC. Interactions should be seen in a broad sense, covering not only trade in goods, but also trade in services as well as migration. There is a significant community of Caribbean origin that migrated to the UK during the decolonisation era. It was important for UK politicians to pay attention to the interests of that community.<sup>15</sup>

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<sup>13</sup> It is remarkable that the EU relations with the Caribbean ACP states are quite different from the EU relations with the Central American states. In terms of EU financial support and trade concessions, the ACP states had far superior arrangements than Central America. Nevertheless, the cooperation between the EU and Central America gradually became more ambitious.

<sup>14</sup> Another relatively large beneficiary of the trade protocols, but situated outside the Caribbean-Pacific zone is Mauritius. Mauritius was on the original list of Commonwealth countries singled out for association in the UK's accession treaty. The trade protocols have been phased out gradually. During the phasing out period (until around 2014) the EU provided sizeable assistance in the form of accompanying financial measures outside the EDF. The Caribbean sugar and banana producers received a relatively large share.

<sup>15</sup> Apart from the UK, France is the EU member state with the most extensive historic and present links to the Caribbean and Pacific regions. There are French overseas departments and territories in both regions including French Guyana, Guadeloupe, Martinique, New Caledonia and French Polynesia. More than a million French citizens live in those regions. These departments and territories may derive some indirect benefits from the EU cooperation with the Caribbean and Pacific. It is likely that this is one of the reasons why France accepted the UK demands for association back in 1973. Whether this is still valid today remains to be seen. The Netherlands is another EU member state with links to the Caribbean region. But given the Netherlands overall stance on development policy, it is unlikely that they would wish to preserve a privileged deal for the Caribbean states.

#### 4.2.1. Trade

Whether or not the Caribbean states stay in the ACP group, the Caribbean EPA remains valid, because it is an agreement with unlimited duration. The EPA will continue to cover the trade between the Caribbean ACP states and the EU27. There will be no uncertainty due to Brexit. This is not the case for trade between the Caribbean and the UK. There will probably be uncertainty about the trade regime between the UK and the Caribbean.<sup>16</sup> As soon as the UK leaves the EU it will have no legal basis to discriminate in favour of goods from the Caribbean, unless there is a new separate trade agreement. It may be possible for the UK to quickly introduce preferences in favour of developing countries under the UN's Generalised System of Preferences (GSP). However, with a GSP the Caribbean states would have the same trade regime as all the developing countries. It will take time before the UK can negotiate a new trade deal with the Caribbean (or for that matter with other developing countries). Without such a trade deal, the Caribbean exports would face new trade barriers in the UK. This will not be the case for exports to the EU27. A possible remedy is for the UK to simply carry over the EU EPA, which it could 'cut-and-paste' into a new UK-Caribbean EPA post-Brexit, an approach apparently favoured by the UK government.<sup>17</sup>

Also from the perspective of the Caribbean, Brexit makes the relation with the EU less interesting. The UK takes a large share of the Caribbean exports to the EU. For five Caribbean states the share of the UK in their exports to the EU is above 25%: Belize, Dominica, Guyana, Jamaica and St Lucia. For Fiji the share is even above 40%. This is why Laurent et al (2017) even suggest that ACP states like those in the Caribbean and Pacific should ask for a renegotiation of the EPAs with the EU27.<sup>18</sup> The reasoning behind is that with the UK no longer in the Caribbean-EU EPA, the access to the EU market is greatly reduced (from EU28 to EU27) for the countries that trade intensively with the UK. The opening of the Caribbean ACP markets to the EU27 may therefore be considered as too much of a concession to the EU27, hence the recommendation to renegotiate the EPAs or even to consider ending the EPAs with the EU27.

#### 4.2.2. Beyond trade

What about the other pillars of political dialogue and development cooperation? The UK has been the strongest advocate among the EU Member States for political dialogue with the Caribbean. The Brexit makes such political dialogue less attractive for the EU27. As for the Official Development Assistance (ODA), the most recent policy line emphasised that the EU's assistance should focus on the poorest and most needy countries. This corresponds with maximising the ODA contribution to achieving the Sustainable Development Goals (SDGs). Under the EU 2014 - 2020 Multiannual Financial Framework there should be no more bilateral programmes for countries classified as being Upper Middle-Income or High Income. Because of the Cotonou Agreement this principle was, however, not applied in the ACP group. If it would have been applied for the Caribbean ACP only two countries would have been eligible: Guyana, which is a Lower Middle-Income country and Haiti, which is a Least Developed Country. The principle was also not applied for regional cooperation, which represents a relatively important share of EU assistance.

It must be underlined that even if the Caribbean countries were not to be part of a successor agreement to Cotonou as from 2020, there would still be good arguments for a specific agreement between the EU27 and the Caribbean states. A possible and relatively easy scenario could be the broadening of the Caribbean EPA to include also the cooperation and political dialogue pillars. The existing EU Caribbean

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<sup>16</sup> For a thorough and clear explanation see Errol Humprey "How will the Brexit affect the Caribbean?", ECDPM Discussion Paper no. 199 (August 2016).

<sup>17</sup> See <http://www.independent.co.uk/news/uk/politics/brexit-latest-news-uk-cut-paste-trade-deals-countries-liam-fox-secretary-a7929931.html>

<sup>18</sup> See Edwin Laurent, Lorand Bartels, Paul Goodison, Paula Hippolyte and Sindra Sharma "After Brexit: Securing ACP Economic Interests", the Ramphal Institute, London, 2017.

Strategy and the Cotonou Agreement could be a logical basis for this. This would lead to a free standing *EU27-Caribbean agreement* in some way comparable to the one between Central America and the EU.<sup>19</sup> An issue that requires attention under such scenario is the position of Belize and the Dominican Republic. Both countries have joined the Central American Integration System and are at the same time part of the Caribbean EPA.<sup>20</sup> A scenario along these lines would imply that gradually the relations between the Caribbean and the EU become more determined by geography and mutual interests rather than by colonial history. In terms of political dialogue, the EU may further develop its ties with the Community of Latin American and Caribbean States (CELAC) as recommended in the EU's new Global Strategy adopted in July 2016.<sup>21</sup>

The Brexit also diminishes the motivation for the EU27 to maintain the privileged treatment of the Pacific states as part of the ACP group. The Pacific exchanges with the UK are overall less intensive than for the Caribbean, but they are more intensive than for the EU27. Like for the Caribbean, if the Pacific ACP states were not to remain in a successor of the Cotonou Agreement, there would still be good arguments to work towards a separate agreement for the Pacific island states covering the three pillars of cooperation, trade and political dialogue. Because it was only possible to agree interim EPAs for Fiji and for PNG and not yet a Pacific EPA, the trade component of such an agreement would be rather shallow.<sup>22</sup> The existing EU's Pacific strategy could be a source of inspiration. The wider relations and political dialogue between the Pacific ACP and the EU27 could also be handled under the umbrella of the relations between the wider Asia Pacific region and the EU.<sup>23</sup>

Apart from the Brexit, there are some other arguments for the EU27 in the future to engage in a different, more modest way with the Caribbean and Pacific ACP states. In terms of trade, the EU27 is a small player for the Caribbean and a marginal player for the Pacific. There is a trend for the EU's share in Caribbean and Pacific trade to decline further. Also the special trade arrangements (trade protocols) that were motivating and justifying the original association have been phased out. Last but not least, the overall development needs of the Caribbean and Pacific countries are much smaller compared to the needs in Africa. In the Caribbean there is only a single LDC, Haiti, and moreover, a number of states are wealthier than some of the (newer) EU member states. There are sound development arguments to continue bilateral EU cooperation with Haiti and thematic regional cooperation on issues such as climate change.<sup>24</sup> As for the Pacific region there are still five LDCs: Kiribati, Solomon Islands, Timor Leste, Tuvalu and Vanuatu. But the population in this region is tiny and trade with the EU is very small.<sup>25</sup> The large distance between the EU and the Pacific region makes the delivery of aid relatively expensive in terms of the cost of

<sup>19</sup> In 2010 the EU finalised negotiations with Central America on a region-to-region association agreement that consists of three pillars: political dialogue, cooperation and trade. So far, the agreement with Central America remains the only EU region-to-region agreement outside the ACP group that fully covers *trade*.

<sup>20</sup> Belize did this already in 2000 and the Dominican Republic in 2013.

<sup>21</sup> See "Shared Vision, Common Action: A Stronger Europe. A Global Strategy for the EU's Foreign and Security Policy" June 2016.

<sup>22</sup> As mentioned above, five of the Pacific ACP states are LDCs for which access to the EU market will remain unrestricted under the EBA initiative. This is an important difference with the Caribbean.

<sup>23</sup> This would mean that EU relations with developing countries reflect the structure of the UN sub-regions. The EU already applied this logic in deciding on the administrative structure of the EEAS and DG DEVCO, before the Post-Cotonou discussion got under way.

<sup>24</sup> The Caribbean's vulnerability to climate change and related extreme weather events was demonstrated dramatically again in September 2017. If the EU's regional cooperation in the Caribbean would be focussed on combatting climate change, its visibility and impact might be enhanced. In the past EU cooperation on climate change in the Caribbean has been dispersed.

<sup>25</sup> A Pacific EPA (like the one in the Caribbean) seems unlikely. For Fiji and PNG access to the EU market remains unrestricted under the interim EPAs. The five LDCs in the region will keep access to the EU market under the EBA initiative. For the other countries that trade only marginally with the EU the standard GSP trade regime will apply.

programme preparation and implementation. Other development partners such as Australia, New Zealand or Japan are better placed to deliver ODA in a cost-effective way.

It is also important to recall that the UK contribution to the EDF amounts to around 15% of the total. After Brexit the EU27 will find it hard to distribute this sizeable cut of the EDF (or its successor arrangement). One criterion could be to maximise the contribution of development finance towards achieving the Sustainable Development Goals (SDGs). This could imply a less generous treatment of the Caribbean and Pacific ACP countries (except for the LDCs) than in the past.<sup>26</sup>

Before moving to the African case it is useful to discuss what may seem contradictory: saying on the one hand that because of Brexit it is less worthwhile to keep a Cotonou type agreement with the Caribbean and Pacific, while on the other hand suggesting separate EU27 agreements with the Caribbean and Pacific. Such separate agreements are, of course, in line with EU policy to reach out to all developing countries and regions. There are already agreements for example with Central America and South East Asia (ASEAN). But the key point is that these agreements would be based mainly on common interests rather than on colonial history. It is, therefore, logical to work towards agreements with the Caribbean and Pacific.

The practical difference between what is suggested above and the scenarios for future ACP-EU relations mentioned earlier is not so great as it might seem. The preferred options in the paper of the European Commission and the European External Action Service (EEAS), as well as in the European Parliament's Resolution already imply a clear *differentiation* between the African, the Caribbean and the Pacific regions while keeping an all-ACP umbrella or a common framework. It is likely that most of the practical cooperation would anyhow take place under the distinct regional partnerships. Also the ACP Aide Memoire while emphasising ACP unity does recognise that the sub-regions must be taken into account.

### 4.3. The African case is different

The situation for the African region is quite different from that of the Caribbean and Pacific regions. The EU's interest to associate with Africa was never linked to the UK membership. Therefore, the Brexit would not much affect the motivation for continuing the ambitious association agreement between Africa and the EU. Even before the UK entered the EEC there was already the Arusha agreement with the East African countries. Regardless of the Brexit there are strong historical, geographic, developmental and political reasons for the EU to engage with Africa as a privileged partner. Hence, there are good arguments to continue a comprehensive arrangement similar to the Cotonou Agreement with the African region.

However, for Africa another fundamental element must be taken into account: the African Union (AU), which was effectively launched by the Durban Summit in 2002. Right from the start the EU has engaged in political dialogue and cooperation programmes with the AU. This is done by regular Commission to Commission meetings and through the Joint Africa EU Strategy (JAES), in parallel to the Cotonou Agreement. For example, the Africa Peace Facility (APF) is a key cooperation instrument supporting peace and security initiatives of the AU. Since its inception in 2003 until 2015 approximately €2 billion have been committed for the APF, with funding from the EDF. It is a bit strange that support for a key AU initiative comes from the EDF. In order to support its strategic partnership with Africa as a whole the EU created a new Pan-African Programme (with budget of €845 million for the 2014-2020 period).

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<sup>26</sup> It is sometimes noted, that the EDF is an intergovernmental arrangement implying that the UK could still take part after leaving the EU. Hence, while this would seem very unlikely, the UK could continue contributing to the EDF possibly on condition that the Caribbean and Pacific regions would remain eligible. This would be in line with the UK's original position when joining the EEC. What is more likely and also desirable is that the UK continues to seek complementarity with EU aid in the future.

It is desirable that the EU's engagement with the African Union is fully reconciled and harmonised with the successor to the Cotonou Agreement. This is directly related to North Africa. Over the past 50 years the relations between North Africa and the EU have been handled differently from the relations between the EU and sub-Saharan Africa. In some respect, the EU's relation with the North African countries is comparable to its relation with South Africa. With South Africa, the EU reached the Trade, Development and Cooperation Agreement (TDCA) in 1999. The TDCA did not prevent South Africa from becoming a member of the ACP Group and to engage in EPA negotiations involving five other countries in Southern Africa (Botswana, Lesotho, Namibia, Swaziland, as part of the Southern African Customs Union – SACU - and Mozambique). As for North Africa, the EU's Mediterranean and Neighbourhood policies led to the conclusion of a series of bilateral Association Agreements that cover trade, cooperation, political dialogue and even include approximation of the EU's single market. For the North African countries, membership of the ACP group was never considered. However, given that it was possible to reconcile the South African TDCA with membership of the ACP group, it seems that a similar approach would be feasible for the North African countries that are willing to move in this direction.<sup>27</sup> The result could be (for the first time) a unified framework for the EU to engage with the whole African continent. Such a unified framework would be helpful to deal with many issues and challenges that concern North Africa as well as sub-Saharan Africa such as migration and climate change. However, given the current political and security situation in some of the North African countries, moving towards such a framework is unlikely in the short term. But it would still be possible to agree a legally binding successor to the Cotonou Agreement with sub-Saharan Africa, and to foresee the option for North African countries that are ready and willing to join this new agreement.

## 5. Concluding observations

The Brexit weakens the arguments in favour of a continued close association between the EU and the Caribbean and Pacific ACP states like under the Cotonou Agreement. This is mainly because these states became associated with the EU as a direct result of the UK's accession. However, it certainly does not imply that there should be no more cooperation between the EU27 and the Caribbean and Pacific regions after the end of the Cotonou Agreement in 2020, but rather that the future relation should be based more on common interests than on colonial history. The Caribbean EPA already covers trade and has an unlimited duration. It can be complemented by appropriate arrangements for development cooperation and political dialogue. Political dialogue between the EU and the Caribbean will further be part of the wider dialogue between the Community of Latin American and Caribbean States (CELAC) and the EU. There are similar arguments for a specific agreement between the Pacific region and the EU reflecting common interests and covering the pillars of trade, development and political dialogue.

As regards the African ACP states, Brexit does not diminish the case for continuing the present close association of the Cotonou Agreement. However, with the increased prominence and importance of the African Union for the EU in terms of political dialogue, cooperation and addressing common challenges, the future association between the EU and sub-Saharan Africa should be open to North African countries that are ready and willing to take part. In this way, a single ambitious framework could gradually cover the Africa-EU relation.

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<sup>27</sup> It remains to be seen whether this is also attractive from the perspective of the North African countries that take part in the European Neighbourhood Policy (ENP). With increased attention for the Eastern Partnership, the EU already made a differentiation between its Eastern and Southern neighbours. There should be coherence between EU policy towards the African Union and towards the Southern neighbours. An interesting development is that in 2017 Morocco became a member of the AU, while it has an association agreement with the EU.

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This publication benefits from the structural support by ECDPM’s institutional partners: The Netherlands, Belgium, Estonia, Finland, Ireland, Luxembourg, Sweden, Switzerland, Denmark and Austria.

ISSN1571-7577

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