

EU Communication: “A renewed partnership with the countries of Africa, the Caribbean and the Pacific”

Preliminary Analysis

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Introduction

This paper presents a preliminary analysis of the European Commission's Communication titled "A renewed partnership with the countries of Africa, the Caribbean and the Pacific", for the purpose of informing Ministerial debates towards the 28 November Foreign Affairs Council as well as the ensuing process towards drafting the EU's negotiation mandate. The authors of the paper have analysed the Communication at 'face value', building upon their long-term policy and research experience on ACP-EU relations.

1. General comments

1. The Communication starts from the "*changed global context*" and the "*challenging environment*" in which the renegotiation of the ACP-EU Partnership will have to take place. It recognizes the "*significant changes*" that need to be made to make the future relationship fit for purpose in today's world. It clearly states that "*a simple rollover of the CPA would not be able to deliver*". The Communication calls for a stronger political partnership that is adapted to the UN Agenda 2030 and coherent with the EU Global Strategy and the new European Consensus on Development. The Communication also recognizes the regional dynamics in the different parts of the ACP and the need to link up ACP countries with neighbouring regions. This is a widely supported context analysis and rightly points to the need to adapt the partnership to the major changes at global level, in the EU and in the ACP.
2. The Communication identifies a number of strengths and weaknesses of the Cotonou Partnership. It stresses that the CPA has "*significantly contributed to the eradication of poverty*" that it has "*contributed to an increase of trade flows*" and that "*it has allowed for progress on the integration of partner countries into the world economy*" (p 6). It acknowledges a mixed picture as regards the respect for the essential elements by ACP states. Another recognised weakness is the "*lack of responsiveness and real cooperation*" from the side of the ACP in key international debates and on global challenges - although the document refers several times to cooperation with ACP states in the negotiation of the COP in Paris as a positive exception².
3. However, the above analysis is mainly based on the July 2016 Staff Working Document presenting the Commission's assessment of the Cotonou Partnership Agreement, which it refers to as an "evaluation". This is problematic because the document concerned is in reality a 'self-assessment' by one of the parties directly involved –rather than a self-standing 'independent evaluation'. While the report did an effort to provide a critical overview of the issues at stake, it is the Commission that speaks here and presents its own view on what worked and did not work. This exercise can therefore **not be considered as an independent evaluation that responds to the high quality standards that DEVCO sets for ex-post evaluations**. Yet in the Communication, and the Impact Assessment that informed it, the Commission continues to refer to its own analysis as an 'evaluation' and uses this as the basis for making assumptions and drawing conclusions for future scenario building.
4. The Communication sets out six priorities towards partner countries:
 - 1: Promote peaceful and democratic societies, good governance, the rule of law and human rights for all

² As an example of successful cooperation the Communication refers up to 3 times to the "*successful negotiations*" and "*positive outcome of the Paris Climate Change Agreement*". ECDPM has analysed this concrete case in its political economy analysis and arrived at the conclusion that it were primarily the Small Islands Developing States (SIDS) through the Alliance of Small Islands States (AOSIS) who played a leading role in the "high ambition coalition" that did the technical and political groundwork. The ACPs' role in process was mainly limited to providing political support during the final stages of the COP21.

- 2: Spur inclusive sustainable growth and decent jobs for all
- 3: Turn mobility and migration into opportunities and address challenges together
- 4: Promote human development and dignity
- 5: Protect the environment and fight climate change
- 6: Join forces in the global arena on areas of common interests

Content-wise, few will disagree with this policy agenda. ***Yet the real question for the future is to decide through which institutional frameworks and partnership arrangements these priorities can effectively be pursued.*** Looking at the concrete practice of ACP-EU cooperation (see the recent ECDPM Political Economy Study), these European strategic interests are currently no longer or not primarily pursued through the ACP-EU partnership. The reality is that most of the issues are now addressed by both the EU and ACP actors in other fora – considered to be more adequate to reach political deals between the EU and the A, C and P. In practice, it is not so easy to find areas where the ACP-EU framework has real added value for all parties involved beyond political declarations of intent or serving as the institutional expression of historical ties. It should also be noted that the positive results to which reference is made in the abovementioned assessment of the CPA by the Commission could also have been achieved outside the specific setup of the ACP-EU partnership.

When applying a political economy analysis to how the ACP-EU partnerships works in practice, the following trends clearly emerge:

- ✓ The political dimension of ACP-EU relations has been largely “regionalised” and is now addressed at continental / regional level.
- ✓ On the migration issue, Article 13 of the CPA envisages all kind of collective action. In real life EU and African policy-makers circumvent these provisions and set up alternative channels to come to agreements in more direct and proximate regional / bilateral fora (e.g. the Valletta Declaration and Action Plan and associated implementation measures).
- ✓ By extension, other global public goods are addressed ***outside the context of the CPA***, in different regional or thematic fora. In recent years, examples where ACP and EU join forces in international fora are rare. Yet the Communication presents the large coalition of ACP actors as a major asset not to be lost in order to get support in international negotiations. It is unclear what has changed in the political economy reality of the partnership to assume that true political cooperation will now “suddenly” occur.

All this suggests it would be useful to have an evidence-based debate on (i) whether the ACP-EU Partnership was able to make a real difference in those six key priority areas; (ii) in which fora these key priority areas are being addressed right now; and (iii) what new factors might justify the belief that the ACP-EU framework can ‘regain’ a lead position on the policy areas that are now handled in other places and through other channels. Otherwise the risk exists to provide a huge mandate to a partnership framework, yet without the political and institutional clout to effectively do something with it.

5. The ***analytical underpinning of the possible future options for Post Cotonou (p 25) does not seem solid and comprehensive.*** For instance, if the CPA would disappear it is assumed that this “*may entail more costs than benefits as it would abandon the positive acquis of a 40 years old partnership and would weaken the EU’s role at the global level*”. These statements are “pro domo” arguments that are not substantiated by factual evidence. A new but different arrangement Post Cotonou should not by definition exclude the Cotonou ‘acquis’. Another example of flawed analysis is

where the Communication states that Option 2 (full regionalisation through three separate regional partnerships) “*would fail to respond to the willingness of the partner countries to have a renewed partnership with the EU and would make it less evident to forge alliances in global fora.*” Who speaks on behalf of the ACP partners? Is this assumption based on consultations with large groups of multi-stakeholder groups in Africa, the Caribbean and the Pacific or only on the perspectives of Brussels based ACP actors, NAOs and JPA members? Why would a regionalisation scenario where the EU can build alliances with more homogenous regional groupings be less effective to forge alliances in global fora than with the ACP Group of 79 quite heterogeneous countries? This statement is also surprising since the Communication recognizes that “*the potential to drive forward a common agenda in global and multilateral fora has barely been exploited and much more concrete results should be delivered*” (p.13)

6. The Communication expresses a preference for an ACP umbrella with 3 distant regional partnerships with Africa, the Caribbean and the Pacific. The umbrella would define common values, principles, essential elements etc. (‘the *acquis*’) and the 3 regional partnerships would integrate existing ones (e.g. JAES). On paper such an arrangement, based on the principles of subsidiarity and complementarity, combines ‘the best of two worlds’. However it fails to address a number of ***fundamental questions that are crucial for the delivery capacity*** of such a system:

- What added value would regions see in such an overarching ACP umbrella?
- To what extent would there be recognition by the AU and the RECs that the ACP would be in the lead on collective action on global public goods?
- What changes are required in decision-making and implementation processes, including in terms of channelling EU funding?
- How to manage the complexity of such an arrangement and how to avoid lengthy debates on who does what and who and on the delineation of competences, roles and responsibilities?
- How to avoid the major risk of overlap and duplication of efforts among the ACP and the RECs?
- How to avoid that both the negotiation process and its intended outcome become a source of conflicts on mandates and of an increase of transaction costs?

7. The Communication argues for the need to move beyond established patterns of north-south cooperation. To reflect this, it argues on the first page that applying the “*principle of co-responsibility*” would allow realising a “***true partnership***”. What is meant by a true partnership, and what kind of responsibilities the EU would expect ACP countries to meet is not specified. This adds to a perception that what is presented as something ‘new’ will in its operational details tend to maintain the status quo.

8. There are two other striking omissions in the Communication, respectively related to the financial means and the functioning and reform of the ACP-EU structures. This reinforces the impression that the Commission ***favours form over function***. The introduction states that the proposal is “*coherent with the Commission proposal to revise the European Consensus on Development*”, yet it is unclear what the basis is for this assertion. On the contrary, the option to continue with a separate institutional framework for EU cooperation with ACP countries and another one for non-ACP countries presents rather a hindrance to the realisation of a common European vision on development policy as reflected in a future revised EU Consensus on Development.

9. Section 4.6 defends the need for a legally binding framework with reference to the EC’s ‘Impact Assessment’. Yet the one-paragraph explanation implicitly anticipates challenges in keeping the setup sufficiently flexible for differentiating cooperation at the regional level. More fundamentally, it seems

important that the parties involved acknowledge that the ***existence of a legally binding status of the CPA does not provide any guarantee for effective compliance*** –as illustrated by the sobering practice of core CPA provisions linked to shared values, political dialogue, migration. The experiences of partnerships with other regions -without such elaborated legal framework- could also be taken on board to facilitate a more pragmatic and functional discussion on this matter

2. Specific comments

1. The text states that *“an important shift of decision-making and implementation towards the regional levels will be required”*, yet page 28 of the Communication states that it is too early to define the institutional set-up. This may be true but the Commission could raise a number of questions on opportunities and risks, which would allow the member states to judge whether the option proposed by the Commission is adequate in terms of efficiency and value for money.
2. The formulation that the EDF is *“an extra-budgetary fund consistent with the EU Multiannual Financial Framework”* seems an implicit assessment that a decision to ‘budgetise’ it would not bring much added value. This would however go against the EU Global Strategy, which calls for simplifying and flexibilising the EU’s financial instruments for external action. Incorporating an extra-budgetary fund into the budget would be a step towards realising that ambition.
3. The Communication presents in section 3.1. six core priorities, spelling out the EU interests at stake for each of them. As they precede the presentation of specific objectives for the three regions, they imply that all six priorities can to some degree be taken further at the all-ACP level. More specifically:
 - ✓ The Communication notes that the partnership should acknowledge *“the complementarity of roles between the national criminal jurisdictions and the International Criminal Court in achieving justice and reconciliation”*. This ‘complementarity’ would be a weakening of the current text in the CPA.
 - ✓ There are no references to non-discrimination and LGBT rights in the Communication. However, section 3.1.4 includes references to inter-cultural dialogue, cultural diversity and the promotion of mutual understanding. The Commission may have chosen not to address this issue heads-on, yet it needs to be anticipated since the second revision of the CPA showed that these aspects (which some EU stakeholders may insist upon) will provide an obstacle to a legally binding agreement.
 - ✓ Section 3.2 is the largest section of the Communication and presents specific priorities for cooperation with the African, Caribbean and Pacific regions. The fifth and sixth priority (protecting environment/fighting climate change and cooperation in global fora) are in view of the Commission best pursued at the all-ACP level, while each region is to further three of the six priorities. As mentioned above (general comments, par. 4) there is very limited evidence that the all-ACP level is the best vehicle to push forward these agendas.
 - ✓ The Commission’s social media channels circulated the following figure to summarise its proposal:



- The bulk of the chapter on a more targeted and flexible partnership is used to present a summary of the Commission's Staff Working Document in which it presented its own synthesis of the results of ACP-EU cooperation under the Cotonou Agreement to date. It subsequently devotes space to discussing some of the options for shaping ACP-EU cooperation after the expiry of the Cotonou agreement, yet it rejects the fourth scenario explored in the NL Presidency note as well as ECDPM's recent study. As a result, all options considered by the Commission reflect the logic of working with a fixed group of countries with official actors (governments, regional organisations) in the driving seat, as opposed to working with different interest-driven coalitions of countries and stakeholders.
- The Communication subsequently discusses the 'outreach' beyond ACP countries, yet the Communication is not concrete as to what this would entail in concrete terms. The upcoming EU discussions, as well as dialogue with both ACP and non-ACP states, would need to determine to what extent the ambition to enlarge the ACP-EU partnership is desired and realistic.
- Section 4.3 presents four key principles for cooperation under a new agreement. Article 2 of the current Cotonou Agreement presents five, and the one not listed in the Communication concerns the principle of differentiation. This could be because the differentiation would be reflected in the regional pillars of the agreement. It may however also imply that the EU would like to open the door to allow for different treatment of ACP and non-ACP countries in the field of development cooperation, given that current UMICs and HICs would be expected to graduate from bilateral development cooperation after 2020.

3. Conclusion

With this Communication, the Commission and the EEAS position themselves on a preferred future scenario, but they do so based on assumptions that are not convincingly sustained by evidence. There are demonstrable flaws in the analysis and it generates an impression that it builds up a logic that at the end of the day defends the continuation of the ACP-EU cooperation after 2020 through an ACP umbrella with three distinct regional partnerships. As such, the profound changes in the global context are acknowledged but not translated in a forward-looking institutional arrangement. The Communication does not make a convincing case on the continued added value and cost-efficiency of an ACP-construction.

In this light the Member States can primarily seek to ascertain which of their core political and developmental interests will be genuinely served by the EC proposal.

Judging past practices and the prevailing political economy conditions, the current proposal may not be the best possible option to deal with the cooperation post 2020.

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