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The Cotonou Agreement in a nutshell



The Cotonou Agreement builds on generations of cooperation agreements between the expanding ACP Group and an evolving Europe. In many ways, however, the Cotonou Agreement marks an important break with the past. Major innovations have been introduced to improve the overall impact of aid, trade and political cooperation between the ACP and the EC. This chapter summarises the most important features of this unique international cooperation agreement.

'The Cotonou Agreement will give a new momentum to the relationship between the ACP States and the European Union. It represents an important component of international efforts aimed at promoting sustainable development and reducing poverty.'

Poul Nielson, European Commissioner
for Development and Humanitarian Aid¹

2.1 A quick look into the past

Before presenting the contents of the Cotonou Agreement in some detail, it may be useful to look back for a moment into the past in order to understand the origin of some of the key elements of ACP-EC cooperation.

ACP-EC cooperation has been going on for more than 25 years. In the process, the two parties have developed a certain way of doing business, which some people call the 'culture of ACP-EC cooperation'. The Cotonou Agreement clearly builds on this tradition. Over time, this cooperation has evolved, with some dramatic changes.

European Economic Community

In 1957, six European states founded the European Economic Community (EEC), which marked the beginning of the process of European integration. The process was systematically pushed forward, culminating in the creation of the European Union (EU) in 1993. The number of EU Member States has continued to grow, and will include no less than 25 in 2004.

ACP Group

The ACP Group has evolved from an alliance of 46 states when it was set up in 1975, to include 79 countries in 2003. In this group, 77 countries effectively signed the Cotonou Agreement and benefit from it. Cuba is member of the ACP Group, but did not sign the Cotonou Agreement, while EC support to South Africa is funded under a special budget line.

ACP-EC cooperation

The idea of 'European cooperation' started in the 1960s with economic cooperation agreements, mainly with independent French-speaking African countries. In 1975, the newly constituted ACP group and Europe concluded their first major partnership agreement – the Lomé I Convention. European cooperation now reaches out to all parts of the world. The EU (the European Community and the Member States) is now the world's largest provider of aid.

This is not the place to dwell on the details of past ACP-EC cooperation, but the time chart 'Milestones in ACP-EC cooperation' indicates some key moments in the history of the partnership.

2.2 Cotonou - a new way of doing cooperation

The transition from the Lomé Conventions to the Cotonou Agreement involved more than a change of name. The Cotonou Agreement provides a number of innovative approaches to cooperation, all of which aim to address more effectively the pressing and varying challenges in the development of ACP countries. The following paragraphs offer an overview of innovations introduced in the Cotonou Agreement.

Milestones in ACP-EC cooperation

- 1957** Belgium, France, Italy, Luxembourg, the Netherlands and West Germany sign the Treaty of Rome creating the European Economic Community (EEC). The treaty includes a legal provision for a specific European cooperation programme.
- 1963** As African countries gain independence, the EEC develops a first generation of economic cooperation agreements, mainly with French-speaking African countries (the so called Yaoundé Conventions).
- 1973** The UK joins the EEC, bringing along its former colonies in Africa, the Caribbean and the Pacific.
- 1975** Creation of the ACP group, an alliance of 46 ACP States.
- 1975** Lomé I Convention (1975-80), the first major aid and trade cooperation agreement between Europe and the ACP.
- 1980** Lomé II Convention (1980-85).
- 1985** Lomé III Convention (1985-90) includes for the first time a 'human rights clause'.
- 1990** Lomé IV Convention (1990-95).
- 1990-1995** Lomé IV *bis* Convention (1995-2000) reinforces political cooperation and introduces the possibility of suspending aid in cases of grave violation of agreed values and principles.
- 1996** The European Community (EC) starts informal consultations on the future of ACP-EC cooperation (the 'Green Paper process').
- 1998-2000** Negotiations of a successor agreement to the Lomé IV *bis* Convention.
- June 2000** The Cotonou Partnership Agreement (2000-2020) is signed in Cotonou, Benin.
- April 2003** The Cotonou Partnership Agreement enters into force.

Poverty reduction is the core objective

Article 1: *'The partnership shall be centred on the objective of reducing and eventually eradicating poverty'*

The fight against poverty has always been high on the European cooperation agenda, but under the Cotonou Agreement it is seen as the central objective and performance indicator. Rather than defining poverty in a narrow economic sense (e.g. in terms of incomes), the Cotonou Agreement aims to ensure that the political, social, cultural and environmental circumstances of people living in developing countries change for the better.

Ensuring ownership

Article 2: *'ACP states shall determine the development strategies for their economies and societies in all sovereignty'*

This principle should guide all aspects of cooperation between the ACP and the EC. In practice, this calls upon the EC to support existing national development strategies, or the development of such strategies, and to work primarily with existing institutions and capacities in the ACP countries. It also implies a shift towards supporting national budgets, rather than funding 'stand-alone' projects and programmes.

Promoting dialogue and collaboration between state and non-state actors

Article 4: *'...the Parties recognise the complementary role of and potential for contributions by non-state actors to the development process'*

This is another major innovation of the Cotonou Agreement. For the first time, ACP-EC cooperation fully recognises the essential role that non-state actors can play in the development process of an ACP country. New opportunities are created for these actors to participate in all aspects of cooperation (formulation, implementation and evaluation). The purpose is not to oppose governments, but to foster dialogue and collaboration between governments and other actors in development, all of whom have a legitimate role to play.

From trade preferences to economic cooperation

Article 36: *'...the Parties agree to conclude new World Trade Organization (WTO) compatible trading arrangements, removing progressively barriers to trade between them and enhancing cooperation in all areas relevant to trade'*

Perhaps the most radical change introduced by the Cotonou Agreement lies in the area of trade cooperation. For the past 25 years, under the Lomé Conventions, the EC has granted '**non-reciprocal trade preferences**'* to ACP countries. This

means that ACP countries could export nearly all of their products to the EU market without having to pay customs duties, and without having to open up their own markets in return.

Under the Cotonou Agreement, this preferential regime will be maintained until December 2007. In the meantime, the ACP countries and the EC will negotiate 'Economic Partnership Agreements' * (EPAs). These are comprehensive trade arrangements, including free trade agreements (FTAs), between the EC and regional ACP groupings. EPAs will normally take effect in 2008 (*for further details see section 2.3*).

Priority to political cooperation

Article 8: 'The Parties [to the Agreement] shall regularly engage in a comprehensive, balanced and deep political dialogue leading to commitments on both sides'

Whereas the successive Lomé Conventions focused primarily on economic cooperation, the Cotonou Agreement places much more emphasis on 'politics', with support for democratisation processes and reforms to improve governance in ACP countries. There is also scope for the partners to impose sanctions (as a measure of last resort) if a party violates any of the **essential elements*** underpinning the Agreement, such as human rights.

Performance matters

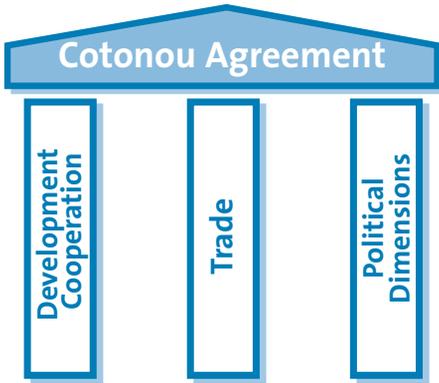
Annex IV, Article 5: '...the [European] Community may revise the resource allocation in the light of the current needs and performance of the ACP state concerned'

Under the Lomé Conventions, ACP countries were 'entitled' to a given amount of aid, irrespective of their development performance. The Cotonou Agreement now wants to 'reward' countries and regions if they perform well in fulfilling mutually agreed obligations. At regular intervals, this performance will be reviewed (on the basis of criteria such as sound economic policies, governance, effective implementation, support to non-state actors). Some ACP countries may see their allocation increase, while for others it may be reduced.

2.3 A house built on three pillars

The Cotonou Agreement can be seen as a house built on three pillars – **development cooperation, trade** and the **political dimensions** of ACP-EC cooperation – which are closely interrelated. Remove any one of these pillars and the stability of the whole house is likely to suffer.

For instance, providing vast sums of development aid to a poor country may help to



alleviate poverty in the short term, but in the absence of sound domestic policies (including respect for the rule of law), this may not lead to sustainable development. Similarly, aid alone will not do the job. ACP countries also need adequate trade policies, supported by a set of fair international rules.

We now look at each of these three pillars and their most important features in more detail.

Pillar 1 DEVELOPMENT COOPERATION

This first type of support provided under the Cotonou Agreement takes the form of financial and technical assistance to support cooperation priorities, jointly agreed upon by the partners.

Although much could be said about the development cooperation component of the Cotonou Agreement, only the most important elements are discussed here.

Cooperation follows a five-year cycle

The Cotonou Agreement may have been signed for the duration of 20 years, but every five years a 'financial protocol' * will have to be agreed and attached to it. This protocol indicates how much money the EC will put at the disposal of the ACP countries over the next five years.

There is a special fund for the ACP countries

The resources for development cooperation with the ACP countries do not come from the regular budget of the European Union, as do the funds for cooperation agreements with other development regions. For historical reasons, there has always been a separate funding mechanism for the ACP, known as the **European Development Fund*** (EDF). Every five years, the EU Member States agree on their contributions to this Fund. The amount each country has to pay into the EDF is negotiated between EU Member States. We are currently in the 9th EDF, because eight similar financial protocols have preceded it under the Yaoundé and Lomé Conventions.

There is no shortage of resources

There is a considerable amount of money in the 9th EDF - some EUR 13,5 billion for the current five-year period - which is to be

shared among the ACP countries and regions. In addition, the resources that remain unspent² from previous EDFs. Almost EUR 2.5 billion have been transferred from the old EDFs to the 9th EDF and can also be used for new commitments.

There are two cooperation instruments

The Cotonou Agreement drastically reduced the number of cooperation instruments that existed under the previous Lomé Conventions. From now on, all the resources of the EDF will be channelled through two facilities:

- A **grant facility** will finance a wide range of long-term development operations such as macro-economic support, sector policies (e.g. education and health), democracy programmes, debt relief, regional cooperation and inte-

gration etc. Support programmes for non-state actors will also be financed through this grant facility.

- An **Investment Facility** will finance private sector development operations. The European Investment Bank (EIB) will manage these resources (*for more information see Annex V*).

Sharing out the pie

The resources of the 9th EDF are to be shared among the 77 ACP countries and the six ACP regions. The allocation is done by the EC according to 'needs' and 'performance'. The Cotonou Agreement defines both a set of objective needs criteria (e.g. per capita income, population size) and performance indicators. (See *Annex XIII of this guide*.)



Cotonou Agreement Financial resources

(EUR in billion)

9th EDF = 13.5

Long-term envelope (1) = 10

Regional envelope = 1.3

Investment facility = 2.2

(1) including

CDE = EUR 90 million

CTA = EUR 70 million

Joint Parliamentary Assembly = EUR 4 million

Pillar 2 TRADE

Trade cooperation has been a major building block of the ACP-EC partnership. As mentioned above, it is now being fundamentally reviewed, as the EC and the ACP countries and regions seek to conclude Economic Partnership Agreements (EPAs).

Trade negotiations

This second pillar covers a broad and complex policy area. One should also not forget that while negotiating with the EC, most ACP countries are simultaneously engaged in other trade negotiations at bilateral, regional and multilateral levels, the outcomes of which will also influence the final outlook of the EPAs. ACP countries will need to determine a coherent and cross-cutting strategy for all of these negotiations. The EC has launched several initiatives to support ACP countries in these negotiations (*see section 4.3*).

The following paragraphs attempt to clarify some of the main questions you may have with regard to trade cooperation.

What are EPAs?

Economic Partnership Agreements (EPAs) are the new trade arrangements that are due to replace the current non-reciprocal preferences enjoyed by ACP countries by 2008. They will need to be 'compatible' with the requirements of the World Trade Organization (WTO).

This means that for the ACP countries to maintain or improve their EU market access, they will gradually have to open up their own markets to EU products over a period of up to 12 years. In addition to trade in goods and agricultural products, the EPAs will also regulate trade in services, as well as a range of other trade-related matters such as investment, government procurement, product standards, etc. They will be accompanied by development co-operation measures to support the adjustment process.

EPAs will be negotiated with ACP regions and, depending on their legal situation, ACP countries will be invited to sign either as groups (e.g. if they form a customs union) or individually. Implementation of EPAs will focus, especially at the beginning, on deepening regional integration.

Are EPAs the only way forward?

No. For those countries who do not feel in a position to negotiate EPAs, alternative trade possibilities will be considered in 2004. So far, however, very little attention has been given to these alternative options. Since March 2001 the least developed countries (LDCs) have been able to benefit from the 'Everything-but-Arms' * (EBA) initiative, which grants duty-free access to all products, except for arms, from LDCs without quota restrictions.³

What about the ACP-EC negotiating process?

The negotiations for a new trade regime started in September 2002. In a first phase,

negotiations were held at an all-ACP level, with the aim of establishing the main principles and objectives of the Economic Partnership Agreements. In the second phase, negotiations take place at regional level. West Africa (ECOWAS/CEDEAO) and Central Africa (CEMAC) have opened negotiations with the EC at the beginning of October 2003. Other regions are in the preparatory stage, and are holding consultations at national and regional level before stepping into the ring. *The major steps in the negotiation process can be found in Annex IV.*

Who is negotiating the trade arrangements?

On the European side, the negotiations are being conducted by the European Commission, in particular officials from

the Directorate-General for Trade, liaised with the Directorate of Development and in collaboration with other services such as Agriculture or Fisheries.

On the ACP side, the ACP Council of Ministers assumes the political leadership for the trade negotiations at the all-ACP level. A Ministerial Trade Committee (as specified in article 38 of the Cotonou Agreement) is to offer recommendations to the Council, with a view to preserving the benefits of the ACP-EC trading arrangements. The Committee of ACP Ambassadors deals with the day-to-day negotiations. It is up to each region to decide how they organise the division of tasks among their ministers, ambassadors and organisations in the regional negotiations.



Further information on trade issues

More detailed, regularly updated agendas of the major trade events and ministerial meetings, and other information, can be found on the following websites.

www.acpsec.org – ACP Secretariat

www.acp-eu-trade.org – an independent website that provides information and analysis of both thematic and regional issues

<http://agritrade.cta.int> – Agritrade is the CTA's web portal on international agricultural trade issues, established in 2001 in the context of the ACP-EU trade negotiations.

www.epawatch.org – EPA Watch, a civil society organisation that follows the trade negotiations and reports on the activities of civil society advocacy groups

www.acp-eu-trade.org/tni.html 'Trade Negotiations Insights', a bimonthly newsletter that provides regular updates on the trade negotiations

Pillar 3 POLITICAL DIMENSIONS

The Cotonou Agreement puts the political dimension at the centre of the relations between the ACP and the EC.

The critical importance of political dialogue

Political dialogue is considered as a strategic and continuous tool in the partnership between the ACP countries and the EC. The idea is not simply to launch an ad hoc dialogue when major problems in the partnership arise, such as violations of human rights in an ACP country. Instead, the communication channels should be left open and used at all times:

- dialogue can now be organised on a wide range of issues, such as the arms trade, asylum and migration, etc.;
- dialogue can take place in either formal or informal settings and at different levels - national, regional and global;
- non-state actors may be involved in political dialogue; and
- ACP countries can also ask to discuss the coherence of EU policies, their impact on ACP countries, and related issues.

Essential and fundamental elements

The Lomé IV *bis* Convention (1995-2000) defined human rights, democratic principles and the rule of law as 'essential elements' of the partnership between the ACP and the EC, whose violation could lead to the suspension of aid. The Cotonou Agreement goes a step further by considering 'good governance' * as a **fundamental element** * and by addressing specifically the fight against corruption.

Focus on conflict

The signatories to the Cotonou Agreement have committed themselves to pursue 'an active, comprehensive and integrated policy of peace-building, conflict prevention and resolution'. Particular emphasis is placed on targeting the root causes of conflict and on capacity building.

Assessing performance

The performance of ACP countries will be checked systematically through annual, mid-term and end-of-term reviews. Based on the findings of these reviews, the initial choices of the programming process can be modified. In 2004, the mid-term review of the Cotonou Agreement will take place (*see section 4.2*).

2.4 Key terms and acronyms

To be an effective player in ACP-EC cooperation, it is first necessary to master some of the jargon used by **official parties***. This section lists ten key terms and acronyms for non-state actors to keep in mind.

1 National and Regional Authorising Officers - NAOs and RAOs

Each ACP country appoints a senior government official as its *National Authorising Officer (NAO)* to represent it in all EC-supported programmes. The NAO closely cooperates with the EC Delegation officials in that country. The NAO is responsible for day-to-day tasks such as putting contracts out to tender, authorising expenses and making the necessary adjustments to ensure that projects and programmes are properly implemented. The Cotonou Agreement adds new responsibilities to this list, including managing relations with non-state actors.

At the regional level, these tasks are the responsibility of the *Regional Authorising Officer (RAO)*.

2 The Delegations of the European Commission

The *Delegations of the European Commission* act as embassies for the EU in

almost all countries outside the Union. The Delegation performs representative functions, manages day-to-day relations between the EC and the country in question, and plays an important role in the management of development cooperation.

A Head of the Delegation of the European Commission in an ACP country works in close cooperation with the NAO in identifying, implementing and evaluating projects and programmes.

The European Commission has no Delegations in some small ACP countries (often island states), in which cases relations with these countries are handled by another Delegation in the region.

3 Programming

'*Programming*' refers to the national (or regional) process of consultation between the EC and the ACP government (or regional organisation) to determine what type of cooperation will be provided to a given ACP country (or region). During this process, both parties need to agree on priority sectors of intervention, the type of assistance to be provided, and the most appropriate implementation strategies.

Two aspects are worth noting here. First, programming is not a 'one-shot exercise', to be done only at the beginning of the five-year cooperation period. The Cotonou Agreement introduces the concept of

'rolling programming'*, which means that the initial priorities and budget allocations can be revised. Second, non-state actors will be able to participate in this programming process (see chapters 3 and 4).

4 Country and Regional Strategy Paper - CSP and RSP

The *Country Strategy Paper (CSP)* is the document underlying all cooperation of the European Community with a given ACP country. The CSP is a strategic tool that is used to make a clear analysis of the country's situation and priorities, as well as to identify a truly coherent package of EC support measures. It is prepared through extensive dialogue with different actors. The CSP for a given ACP country includes:

- an assessment of the country's political, economic and social situation;
- an assessment of its basic needs;
- an outline of the country's medium-term development strategy;
- an outline of the activities of other donors in the country to ensure complementarity and coherence;
- response strategies detailing how the EC can contribute to the country's development;
- a definition of support mechanisms to implement the strategies; and
- the National Indicative Programme, or NIP (see key term 5).

For an example of the contents of a CSP, see Annex XI.

At the regional level, the *Regional Strategy Paper (RSP)* is negotiated by mandated bodies in six regions: the Caribbean, the Pacific, Southern, Central, East and West Africa. The RSP includes:

- an analysis of the political, economic and social situation of the region;
- an assessment of the prospects for the integration of the region into the world economy;
- regional strategies and priorities, and expected financing requirements;
- an outline of the activities of other donors in the region to ensure complementarity and coherence;
- a proposal for the specific EC contribution to regional integration; and
- the Regional Indicative Programme, or RIP (see key term 5).

5 National and Regional Indicative Programmes - NIPs and RIPs

The *National Indicative Programme (NIP)* is part of the CSP, compiled by each ACP country. The NIP maps out the sectors and areas that will receive EC aid, explains how the aid will fulfil its objectives, gives a timetable for its implementation, and specifies how non-state actors will be involved in the cooperation (if applicable). The NIP is subject to annual as well as mid-term and end-of-the-term reviews. Within the last two mentioned time frames, the review may lead to adjustments of the CSP and the NIPs/RIPs.

The *Regional Indicative Programme (or RIP)* provides a similar framework to guide the use of resources allocated to each of the six ACP regions. For details of the resources allocated to RIPS, see *Annex XII*.

The NIPs and RIPS can be regarded as roadmaps for action. They show what priorities have been chosen by each country or region, and where the money will be spent.

6 Focal and non-focal areas

NIPs and RIPS concentrate the resources on a limited number of '*focal areas*', such as transport, health or education. There is also a separate (much smaller) window for other '*non-focal areas*'. In practice, possible support programmes for non-state actors are included in the non-focal areas.

7 Budget support

The Cotonou Agreement is all about supporting national development strategies and sectoral policies. In practice, this means that there are now few individual projects, and that aid is concentrated on a limited set of sectors.

This change in the targeting of EC aid has also affected the ways in which it is delivered. The Cotonou Agreement actively promotes the use of '*budget support*' as a tool to ensure stronger local

ownership, to achieve greater impact and to improve the sustainability of the assistance provided. Budget support means that the EC pays money directly to the budget of an ACP country (to particular sectors, jointly agreed upon).

8 Financing Proposals and Financing Agreements

The priorities included in the National Indicative Programme of an ACP country have to be translated into concrete development programmes and projects. This means that a support programme needs to be identified ('what do we want to do and to achieve?'), appraised ('is it feasible?') and then approved ('will we finance it?').

For instance, if a NIP includes a support programme for non-state actors, the different parties involved will first have to elaborate a '*Financing Proposal*', providing all the necessary details on how the money will be spent and managed.

This Financing Proposal can then be submitted for approval. If at the end of this process the green light is given to a programme, the official parties - the ACP government and the EC - sign a '*Financing Agreement*'. This document is the legal basis for the programme. It spells out the objectives of the programme, the results to be achieved, the modalities for implementation (including the management structure for the programme), and the funding involved.

9 EDF procedures

EC aid is funded from public money contributed by European taxpayers. A broad set of procedures has been put in place to ensure accountability and transparency in the management of the funds.

For the *European Development Fund (EDF)* special provisions apply, called the 'EDF procedures'. For more information about these procedures, see the financial regulation applicable to the 9th EDF, adopted in March 2003:

http://europa.eu.int/eur-lex/pri/en/oj/dat/2003/l_083/l_08320030401en00010031.pdf

10 Accountability

The machinery of ACP-EC cooperation tends to move quite slowly, particularly when it comes to the disbursement of funding. One of the reasons for this is the need to ensure *accountability* at all levels of decision making.

Being accountable means that a decision maker has to be able to defend everything that has been decided within his or her realm of responsibility. For example, if an EC Delegation and the NAO decide to disburse funds to a third party (such as a non-state actor organisation) they will require that third party to be fully accountable to them. They will also need to be able to defend this decision to the European Commission in Brussels. In turn, the European Commission is accountable to the EU Member States.

Of course such accountability is essential, since these are public funds provided by European taxpayers, but it can slow down processes significantly. It also presents an obstacle to small or informal groups of non-state actors who would like to participate in ACP-EC cooperation, but cannot guarantee that they will be fully accountable due to their lack of experience or limited capacity.

Notes

- 1 *The Courier ACP-EU*, special issue on the Cotonou Agreement, September 2000 (European Commission, Brussels).
- 2 Many factors can contribute to major delays in spending resources, including bureaucratic/administrative reasons (linked to cumbersome procedures). The ongoing reform of the EC external assistance aims to speed up the process of spending EDF resources.
- 3 The trade in bananas will be liberalised in 2006, and in sugar and rice in 2009.

