

## Post-Cotonou: Preliminary positions of EU Member States

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Negotiations about the Cotonou Partnership Agreement after 2020 started before the summer of 2015. This paper explores the preliminary positions of EU Member States at the very start of the negotiation process, which is now well on its way.

The EU remains the largest donor of development aid to ACP countries to date. This underlying donor-recipient relationship between ACP and EU partners raises varying expectations about the future agreement.

For EU15 Member States with strong bilateral relations with ACP countries, no drastic change is required after 2020. Other EU15 countries consider the current agreement not fit-for-purpose. The third group of the newest EU Member States have no strong bilateral interests.

### 1. Introduction

The Cotonou Partnership Agreement between the EU and the African, Caribbean and Pacific (ACP) countries will come to an end in 2020. Negotiations about what will come after 2020 have started. Multiple stakeholders in the EU and ACP partner countries, as well as the institutions of each block, will take part in the process leading to the new framework post 2020.

Discussions among EU Member States started before the summer at working party level in the Council. The Commission launched a public consultation process on 6 October 2015. The accompanying consultation paper was discussed in the Development Cooperation formation of the Foreign Affairs Council on 26 October. Because it is still early in the process, no formal positions by Member States have been expressed so far.

This paper is based on interviews with Eighteen EU Member State representatives for the ACP working party in the Council in May and June 2015.

The main purpose of this paper is to present an overview of questions and concerns related to post-Cotonou before deeper analysis shapes official positions of Member States. These preliminary positions and insights aim to feed into the reflection process leading up to formal negotiations.

The first section looks at the process for the negotiations of post-Cotonou, followed by examination of the geographical scope, differences and the potential of a role for EU-ACP cooperation in multilateral fora. The second part examines the legal nature of the agreement, the ACP institutions, the core pillars of the existing Cotonou Agreement, the political dialogue, the European Development Fund and trade cooperation.

## The process

A mission letter from Jean-Claude Juncker in September 2014 to Commissioner for International Cooperation and Development, Neven Mimica asked him to focus on: "Preparing and launching negotiations for a revised Cotonou agreement" and 'strengthen the EU's strategic partnership with Africa. The Commission's development policy, as well as the new Trade and Investment Strategy, will also promote economic development, support social and environmental protection, defend human rights, tackle corruption, and improve migration management while addressing its root causes."

In the meantime the Commission Working Programme for 2016 stated the Commission "will present a new post-Cotonou policy framework to govern relations with African, Caribbean and Pacific countries and regions'.

To put it mildly, none of the interviewed Member States agreed with the initial approach to the process by the Commission. A closed process was presented to the Member States, who can only participate on the substance once it is running, i.e. feedback on the Green Paper in October. The Round Tables were very open sessions, but they took place in closed groups. The public consultations that started in October are not the right platform to address the issues Member States want to review, such as an overview of Article 8 political dialogues over the past 15 years. There seems to be an institutional drive for status quo, in contrast to the Member States' interests in a future strategic partnership.

The 'new agreement' the Commission is presenting to the Member States, started on the wrong foot. According to most Member States, the process should be open and without preconceptions. They suggested instead an open and broad discussion on where post-Cotonou fits into the EU external and policy. Some also added first the EU should define what it wants to achieve with the ACP regions, and second evaluate what has been achieved with Cotonou in order to take an informed position.

The request for a review of Cotonou has so far been declined<sup>1</sup>, even though a large majority of Member States urged the Commission to publish a report as soon as possible. The few Member States who did not support the question paper, have indicated that they found it too critical on some points, but nevertheless say to support the request for an evaluation report of Cotonou.

In particular for EU13 countries this review is considered a crucial document, because the Cotonou Partnership Agreement of 2000 was adopted together with the *acquis*. Post-Cotonou is the first moment the EU13 can actively participate in relations with the ACP. There is however no internal track record of activities related to Cotonou available and most EU13 countries have few bilateral relations with ACP countries. The EU is the only vehicle through which relations with ACP countries take place.

The Luxemburg Presidency organised a thematic discussion series with the ACP working party that has started in September. They invited the European Centre for Development Policy Management (ECDPM) to present their political economy analysis of Cotonou at an event in September 2015.

## 2. ACP-EU relations in a changing foreign policy environment

### 2.1. Historical relations matter

The historical relation between the EU and ACP countries to a large extent dates back to past colonial times. In the EU today, there are only a small number of Member States that have important bilateral

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<sup>1</sup> In a Background Information paper the European Commission ('EU Partnership with ACP countries: post-Cotonou') states that "A global evaluation of the CPA does not appear to be a very promising undertaking given the broad nature of the agreement. It would require weighing against each other costs and achievements in separate areas such as trade, political relations and economic relations and development. [...] A plethora of studies and workshops has, naturally, come to mixed conclusions."

relations with former colonies. Member States with a colonial history explained in the interviews that the EU created its own historical interests with the ACP that go beyond the importance of bilateral relations with former colonies since the creation of the European Development Fund (EDF) in 1957. For most EU15 countries, and certainly for the Scandinavian and other West-European countries without former colonies, the principle importance of the Cotonou Agreement is the development partnership, regardless of historical ties.

The EU13, countries who joined the EU after 2004, adopted the Cotonou Agreement together with the *acquis communautaire*. For those countries, the current discussion on the future of Cotonou is in fact the first opportunity to sit around the table and negotiate about the EU-ACP relations for the EU13.

Many EU13 countries, which have their own post-independence history since the Berlin Wall, do not consider the traditional donor-beneficiary relationship with ACP countries as an interesting model for cooperation. Their natural foreign policy focus lies on the Eastern Partnership countries, with whom they have partnerships based on economic development cooperation and shared historical experience. Many of these Member States also believe in a strong conditional approach to development cooperation. These countries also feel since all EU Member States contribute to the EDF - there should be some reciprocal benefits from development cooperation returning to all EU contributors in order to speak of an effective partnership. At the same time, for many of the same countries, the ACP-EU construction does allow them to have a voice in ACP partner countries, even in the absence of bilateral representations.

## 2.2. Changes in the EU and the world demand a different model

Since the Cotonou Agreement was signed in 2000, both the EU and the ACP have seen significant changes. On the European side, the EU expanded from 15 to 28 Member States. Where political interests based on historical relations were still important in a partnership with the EU15, it is argued that this is no longer the case with the EU28. On the ACP side the political and economic landscape also underwent fundamental changes since 2000. EU Member State representatives think of trade liberalisation and integration in the global economy as the most significant shifts for the ACP. Although the EU is still the largest donor in terms of Official Development Aid (ODA) to ACP countries, it is now no longer the single most important global partner for the ACP.

Over the past two decades, global competition and upcoming interests of other significant market players, the BRICS, Gulf States and Turkey were mentioned in the interviews, have altered the scene of international relations to such an extent that the EU is now considered as merely one of the important global partners for the ACP.

Nevertheless, Member States argue the EU will remain an influential partner for the ACP after 2020, because the other blocks maintain different ways of cooperation which are less comprehensive than the partnership with the EU. An example that was repeatedly brought forward in the interviews is the business-oriented model that for example Brazil and China maintain with their developing partners in Africa, targeted on economic investments with instant high returns. In contrast, the EU pursues a strategic partnership with ACP partners, based on the three pillars of the Cotonou Partnership Agreement (CPA) and building on the fundamental values of human rights, rule of law and democracy. Many consider the comprehensiveness of the framework to generate mutual advantages for both EU and ACP partners and see this as a feature worth preserving.

Key components of a truly strategic future partnership that were cited include: “a partnership based on a relation between equal partners, with mutual accountability, reciprocal responsibility and ownership in the agreement.” Yet, for many Member States, these elements are lacking in the current Cotonou Agreement.

In order to develop a real strategic ACP-EU relationship, some Member States consider it essential interests from both the EU and ACP side are defined, and put on the table before starting the negotiations for a cooperation framework after 2020. Mutual interests are suggested to go beyond development cooperation, including geopolitical and security issues and mutual trade and employment opportunities in the (Southern) Neighbourhood. Other elements, considered important for a future agreement from the EU side include migration, peace and security, climate change and environmental risks. For a number of Member States they include economic interests, trade and investment, food and agriculture and research.

For other Member States the CPA's clear focus on poverty relief is unique and therefore important to retain.

A number of representatives explained the impact of a considerable number of ACP countries will go from a Low Income to a Middle Income status by 2020 (cfr. World Bank), and might see their share of European ODA shrinking.

The Cotonou Agreement will be framed around the adoption of the Sustainable Development Goals in September 2015. Some Member States would like to see the SDGs have a significant impact on the design of a post-Cotonou Agreement. In their view the SDG's provide the baseline for a more mature partnership with a differentiated approach for e.g. MICs, LDCs and fragile states. Others do not expect a major impact of the post-2015 SDG's on the post-Cotonou process.

## 3. Partnership

### 3.1. Geographical scope and regionalization

The ACP is a heterogeneous group of countries. Member States widely recognise that the regional differences have to be accommodated better than under the current Cotonou Agreement. To this end, no one excludes the possibility of a lighter umbrella structure for the overarching ACP coordination with specific agreements for each of the regions. A more tailor-made approach is also expected to generate a higher degree of ownership among ACP partners.

An umbrella structure including four parallel agreements, one with the ACP and each of the sub-groups respectively, would be challenging to fit into a feasible timeline for negotiations. It would also create a considerable administrative burden, which most of the interviewed Member States absolutely want to avoid.

Regional cooperation is already embedded on various levels in EU External Action. Some examples brought forward in the interviews are the Regional Indicative Programmes (RIPs) on the EDF, cooperation with regional groups among which the African Union (AU), ECOWAS, SADC, CARIFORUM, etc. There is the Joint Africa-EU Strategy (JAES) which was previously financed by the 10<sup>th</sup> EDF (intra-ACP), but now funded through the DCI, which some think would function better if it had recourse to the funds that are now in the EDF, because this would link the RIP's and NIP's better to the Strategy.

The partnership that resulted from the Africa-EU summit in 2014 is seen as an important framework. At the summit there appeared to be confusion among partners on which discussions are subjects for which regional organisations and partnerships. Some of the more critical Member States, both in EU15 and EU13, question how many parallel partnerships the EU needs to maintain with the same partners.

There is a suggestion that a new agreement should draw on recent experience in cooperation, e.g. the Roadmaps of the last Africa Summit, with human development, capacity-building, environment, investment and other pillars. In this view, an intensified Joint Africa-EU strategy is proposed as a potential alternative to the ACP-EU partnership, hence allowing for a stronger regional focus. Yet on the other hand it is still an open question how parts of the *acquis* can be maintained in alternative regional agreements, for example the Article 8 on the political dialogue and 96 on the consultation procedure (and appropriate measures which can lead to sanctions), which no one questions should be taken up in the new agreement, but no one discussed concrete proposals on how to do this.

In many Member States bilateral development cooperation is focused on Africa and Sub-Saharan Africa, often with a particular attention for LDCs and fragile states, while some have special attention for MIC's. Fewer countries have direct relations with Caribbean and Pacific countries than with Africa.

A subject likely to pop up again, is the budget line for Overseas Countries and Territories (OCT's) for those Member States concerned, namely the UK, France and the Netherlands in the case of ACP countries. The EDF currently foresees a budget line for OCT's, complemented by support from the EU budget, which is an important factor for the few EU Member States that are concerned by this.

Some Member States also suggest to open up the geographical scope beyond ACP, e.g. for Latin America. The diversity of the ACP group is thus reflected in the varied focal points of Member States' bilateral relations. To what extent does this variety need to be translated in an EU compromise or is there scope to discuss EU external action as such?

### 3.2. The ACP-EU partnership in multilateral fora

A role for the ACP group in multilateral fora is an ambition to pursue in post-Cotonou for some, while an unrealistic goal for others. However, also evidence based information on voting behaviour in multilateral fora was requested by Member States in order to make an assessment of the current Cotonou Agreement.

From the discussions with representatives, no significant examples of ACP or EU-ACP cooperation at the multilateral level stand out at first sight. The preparations beforehand often mentioned ACP-EU joint declaration for the Addis Conference, but this has not led to a result, neither has a common ground for post-2015 in New York or the approach for Rio+20. The limited role of the ACP in multilateral fora is also seen as an argument in favour of regionalising the relations instead of continuing with the ACP group, so that common positions with groups of countries get a platform in relation to the EU.

On the other hand, some argue that global challenges allow for common positions in a strategic partnership, in particular on climate change and possibly also on migration.

The ACP Secretary-General has expressed the willingness of the ACP group to increase ACP coordination in multilateral fora, notably in the WTO in Geneva at an informal exchange with the working party in June.

### 3.3. The value of a legally binding agreement

A majority of Member States indicated it is likely they will demand a legally binding agreement for post-Cotonou. There is an argument the CPA is unique in its kind as a legally binding agreement with a focus on poverty and development. But whether this is a satisfactory argument to keep it this way is considered questionable by some Member States, especially when comparing Cotonou with other partnership agreements in the world.

During interviews it was repeatedly said that effective partnerships and sanction mechanisms with other partners exist, such as Colombia and Russia, without legally binding agreements. On top of that, sanctions are imposed unilaterally by definition, regardless of the legal nature of an agreement.

To assess the strategic value of a binding agreement, a number of Member States put forward a comparison of Cotonou with other partnerships would be interesting, including cases of suspension of aid to countries under different development instruments such as the DCI.

### 3.4. Interests on the ACP side

There is an overall agreement that the ACP mainly exists in a 'Brussels bubble' and was only founded as a group in relation to the EU. For the ACP working group it is unclear whether the ACP-group actually exists outside the secretariat in Brussels and what the relation is with the African Union Headquarters. Moreover, there are perceived obvious institutional vested interests linked to the ACP structure, for the ACP secretariat as well as for DG DEVCO.

The ACP-EU partnership is thought to be a strategic institutionalised platform for relations with the EU as an important global partner. For Africa there are other fora, such as the African Union (AU) where this takes place, but for the Caribbean and the Pacific states, ACP is the main platform. The ACP for some seems to be reduced to a forum for small island states' relations with the EU, but this is questionable as a strategic interest for the EU itself. The Caribbean for instance is putting efforts into avoiding being regionalised with Latin America.

Institutional reform at the ACP side is imperative for post-Cotonou. Some Member States demand an evaluation on how operational the institutions are. There is an argument the secretariat only deals with the intra-ACP envelope, without the APF.

The Centre for the Development of Enterprise (CDE) is an ACP-EU joint institution, funded by the EDF, with the aim of supporting businesses in ACP countries. Because of ongoing misuse of funds and lack of accountability, the centre was closed in October 2014. The ACP working party was involved in the decision-making on the closure. The case serves as an example of 'wasted' money to joint EU-ACP institutions for many representatives.

Shifting the administration costs to the ACP side is perhaps not the most effective measure for some, given that some countries are already years behind with their contributions to the AU. But, reform of the institutions requires first and foremost genuine support from the ACP side to have real ownership. In this view a stronger focus on South-South cooperation is an option.

It is perceived that the ACP Secretariat in Brussels survives on substantial contributions from the intra-ACP envelope of the EDF without having a significant or visible impact outside Brussels. Whether there is an actual need for these institutions is an important question for some Member States. Others point out that administrative costs for the secretariat should not be able to be considered as ODA, by principle.

Some Member States see it as a crucial element to gain a broader picture on what the ACP countries' interests are in a partnership with the EU. A tailored approach is very much in the interest of the ACP countries at first sight, but input from ACP countries' capitals is needed to assess this.

## 4. Political dialogue

All Member States indicate that political dialogue is a crucial element of the Cotonou Agreement, and one that is certain to continue post-2020. The structured format of the dialogue, which allows to discuss important issues such as human rights, good governance and rule of law, is for many the most important reason to build further on the acquis of Cotonou.

Most interviewees indicated that the post-Cotonou partnership should become a more political and strategic partnership it is now. For a number of Member States it is key to have an encompassing and comprehensive approach in which all elements are subject for exchange and discussion in the political dialogue, coordinated within the EUDEL's. In many Member States there is a perception that the political dialogue in many partner countries only takes place because there is EDF aid linked to the national programmes. An example that was mentioned is the refusal of some partner countries to discuss LGBTI rights or their lack of response to concerns about violation of human rights raised during political dialogues.

The main question for all is how to improve the political dialogue and make it more effective. Some suggested that the difficulty lies in the divergence between the EU and ACP partners on the issues at stake related to the fundamental EU values.

On the other hand, more equality among partners and mutual interests between interlocutors would be ideal for a fruitful dialogue, according to some. The fundamental question put forward by many is how to take up these values when some ACP countries are against them. Along these lines there are also concerns about global competition, with the idea that China is easier on human rights in business development.

All Member States strongly expressed the EU is by no means considering dropping fundamental values in relations with partners. All Member States find respect for human rights, democracy and rule of law absolutely crucial elements of the political partnership, for some this also includes gender equality and LGBTI rights. There are however also concerns about traction for an agreement when partners on both sides have diverging positions on the content of the political dialogue.

An example mentioned of relations where common interests have led to positive results is the joint way forward for South Africa and Angola, with a focus on financial affairs and investment climate.

One Member State indicated that the formalised joint Council meetings are not the right platform for the profound debate that is desired with the ACP partners and suggests a revision of working methods in order to get good day-to-day working relations. High Level meetings are of course necessary, but nowadays EU Ministers do not even attend joint meetings with the ACP, because the actual discussions take place in different fora, such as the regional organisations. Another suggestion is to open the debate on which elements should be part of an agreement and which can perhaps better be dealt with on a bilateral level.

#### 4.1. Article 8 and Article 96

The mechanism of Article 8 political dialogues and Article 96 consultations with the possibility for appropriate measures/sanctioning receives an overall positive evaluation from Member States. The combinations of the two articles reaches a sufficient level of conditionality and carrot-and-stick for most.

In particular Member States are counting on the Commission and the EEAS to publish an overview report on what has happened in practice with the political dialogues, in order to assess how the mechanism can be improved (cfr. the question paper put forward by Germany and supported by over 20 Member States).

Intuitively representatives say they expect mixed results from this evaluation, as it is known that Article 8 dialogues do not take place as frequently as intended in some countries and for example the sanctions following from Article 96 consultations have had a different impact in Zimbabwe and Guinea-Bissau. Ideas to improve the effectiveness of the political dialogue include organising dialogues during large summits, so as to make use of existing fora and fixing the dialogue at high political level to mark the importance of the partnership.

For those who consider a revision of Article 96 important, it could go into several directions. According to some it should be related to a wider scope of issues going beyond development, including trade and investment. The sanctions on development aid for unmet political goals are too unbalanced and reflect to a high extent the donor-recipient relationship instead of a partnership among equals. Moreover, since in some cases budget support from the EDF takes up to 50% of the national budget, sanctions have widespread consequences for the population, where in fact only the authorities should be targeted. This requires more reflection.

#### 4.2. Article 13 on migration

Migration, which is part of the CPA under Article 13, has become a priority problem in international relations. Article 13 has consequently become an important element of the Agreement and one that is expected to stay on the agenda for a long period of time. The current migration debate should raise attention and bring interests on both the EU and ACP side to the table.

Some indicate that readmission agreements are the key discussion point. But others would prefer a more balanced debate on migration, as the text of Article 13 foresees. Consequently the EDF should not be used as a carrot and stick to negotiate readmission agreements, but be subject to a holistic migration approach. One Member State indicated that there exist mutual employment opportunities between EU and ACP countries, an important element for post-2020 discussions.

## 5. The European Development Fund

Generally there is no doubt that the EDF will continue to exist in some form or another. There is a consensus the EDF has been the main driver in the Cotonou Agreement thus far. Some representatives suggested that this should in theory probably not be the case, but at least the EU will have to present an alternative to ACP partners. The question many pose is how to overcome this donor-driven relationship between so-called strategic partners?

The idea is shared that it would be better if all EU development finance instruments are harmonised in the frame of EU external action policy. The EDF consequently will have to take into account the regional

differentiation, the agenda for change and post-2015. Some interviewees expect that perhaps some beneficiary countries will no longer be under the EDF post-2020, given the focus of EU ODA to LDC's and the expected transition for many ACP countries to MIC's in the near future.

For some Member States stricter conditionality is required for the use of EDF money, because they would like to see a more focused use of the funds. A considerable number of Member States indicated that investing in the ACP is fine, but a tangible return to this investment would be welcomed. Nevertheless, contributions to the EDF, at current contribution keys, are accepted by all Member States in the context of the MFF and seen as a 'price to pay' for returns on other parts of the EU budget.

The strongest legally binding instruments are considered to be the non-execution clauses for the EPA's and the possibility for appropriate measures under Article 96. A necessary reflection in the process mentioned several times in the interviews was proposed by ECDPM, namely what would still be left of the Cotonou partnership without the EDF? And is the resulting impact worthwhile investing €30 billion in this broad group of countries?

## 5.1. Budgetisation of the EDF

A number of Member States has consistently pleaded for budgetisation of the EDF. Some other Member States openly oppose this mainly because their contribution for the EDF is lower than for the EU budget.

<i>Arguments in favour of budgetisation:</i>	<i>Arguments against budgetisation:</i>
<ul style="list-style-type: none"> <li>• The budget provides one set of rules, which increases transparent management of funds and cheaper administration costs.</li> <li>• Contribution keys are easier, as all Member States are expected to contribute equally to all instruments.</li> <li>• There is a possibility to have specific procedures for LDCs and MICs under different instruments.</li> <li>• Also the European Parliament is involved in the use of resources, which contributes to mitigate the democratic deficit and again improves transparency in the use of development funds.</li> <li>• There could be a ring-fenced budget line for ACP countries to be allocated for development cooperation, securing the same amount as under the EDF.</li> <li>• Trust funds could offer the structure to react quickly where necessary, so the flexibility of an off-budget instrument is not at risk.</li> </ul>	<ul style="list-style-type: none"> <li>• The EDF as the largest development instrument will be absorbed by the wider context of the MFF and risks to decrease in size on the budget.</li> <li>• There is a perceived greater oversight by Member States in the use of the EDF than would be the case on the budget.</li> <li>• The EDF is the only instrument able to finance Peace Support Operations (PSO's), because it is off-budget.</li> <li>• Because regional programmes are planned together with the partner countries, there is a question how to do this on the budget, since there is no mandate for external partners to programme on budget.</li> </ul>

## 5.2. African Peace Facility

The African Peace Facility (APF) is currently financed by the EDF and hence avoids the difficulty of supporting military expenditures on the EU budget. Even though this arrangement was initially intended to be temporary, it has become a rather permanent solution over time. All agree that some kind of solution for the APF should be found.

Some are convinced that a dedicated instrument for CSDP, including (PSO's), is possible on the budget, e.g. similar to the Athena mechanism fund. Others only see this dedicated instrument outside the budget. This allows for flexibility to finance the APF at the moment, but also creates financial predictability for contributions, in contrast to the CSDP budget which mobilises resources upon demand.

The DAC-ability of an instrument that is able to finance the APF preoccupies all Member States. Given the continuously increasing demands for AMISOM and the need to fund other missions, the 5% limit of non-

DAC-able expenditures for the EDF, through APF is drawing closer. When asked if Member States are prepared to use other funds than ODA to support PSO's, this is obviously a very delicate question. To date only Denmark has a dedicated fund for this purpose, which is consequently non-DAC-able. For a number of delegates it is clear that the APF should continue to have recourse to a development instrument, for others the use of ODA for military expenditures is highly questionable. This leads to the necessity for an in-depth discussion on the use of EU ODA is presenting itself sooner rather than later.

The idea for a separate fund for support to training and equipment of PSO's, of which also Caribbean and Pacific states will potentially be able to benefit and potentially also other global partners is generally welcomed.

## 6. Trade

The trade dimension of Cotonou is mainly taken over by the Economic Partnership Agreements (EPA's), to comply with WTO rules. None of the Member States has a clear view on how this will figure in a post-Cotonou agreement. For many it is clear that EPA's will be the architecture for the trade dimension in post-Cotonou. Yet EPA's can also be seen as self-standing agreements.

As it is unclear whether the EPA's need Cotonou, especially in relation to the non-execution clause, legal advice is deemed necessary. Some argue that the EPA's are self-standing regional agreements and that the reference to the non-execution clause can be solved by a small amendment, others deem the link between EPA's and Cotonou a crucial reason to take them up as the trade element in post-Cotonou.

Some are convinced that the EPA's will remain outside post-Cotonou, but that a trade dimension on a more equal footing with partners is the way forward, next to the EPA's. In this view trade preferences are subject to EPA's, but a focus on trade and investment could complement them. A strategic partnership without an economic dimension is nonsense according to some. There is for instance a perceived real lack of attention for support to intra- and inter-regional trade among developing countries, where the EU could fill the gap. For some, trade support and development of trade should be combined with the political dialogue, linking all aspects together in a comprehensive approach.

Another view is that global changes have led to a context where trade becomes development. MICs have a clear interest in joining the EPA's, which will most likely happen by 2020 and more ACP countries will become MICs in the near future. LDCs benefit from 'Everything But Arms', disregarding CPA or EPA's anyways. Others suggest that the development gap in LDC's which prevents them from benefiting from the EPA structure, should be tackled through projects until they can catch up with their regional partners. Widening and deepening the EPA's can be pursued post-2020, but not everyone is convinced that this should also be the case for LDCs when it comes to services and investment.

The difficult negotiations before concluding the EPA's and the reluctance to ratify and implement the agreements in some partner countries, make that some Member States consider the option that either the EPA's should be continuously be evaluated and improved, or either should stop existing altogether. It is repeatedly pointed out that the only EPA success story so far is the one with CARIFORUM.

Whereas Member States have not yet expressed positions on the trade dimension of post-Cotonou and in many cases trade expertise is situated in departments other than development cooperation and decoupled from the EDF through the EPA's, trade is likely to be a crucial element in negotiations for the ACP side.

## Conclusions

This paper is based on informal discussions with 18 Representatives of the ACP working group at the Council of the European Union at the start of the negotiation process in mid 2015 for what comes after the Cotonou Partnership Agreement that expires in 2020.

In principle all Member States say they agree that post-Cotonou should go beyond a donor-recipient relationship. But, all those interviewed also agree that the EDF, with its €30 billion allocated to development aid, is a key feature of Cotonou and in fact the key driver for ACP countries is to agree with the acquis of the partnership.

Some Member States acknowledge that the political dialogue as it currently exists, is probably more in the interest of the EU than of the partner countries, but it is accepted in return for EDF money. This donor-recipient relationship is considered to be more effective in some ACP partner countries than in others. Although to date the EU still remains the largest ODA donor, in particular in Africa, EDF allocations might have lost some of their bargaining potential due to competition of other global players.

Overall, there appears to be roughly three groups of EU Member States with a similar approach to post-Cotonou. For the EU13, the interests in relations with ACP countries are not obvious. It is the first time that they will sit around the table to discuss the partnership agreement. While some expressed quite strong opinions on the need for reciprocal benefits, others admitted that the line of Member States with a stronger interest could be accepted in view of the *acquis communautaire*.

The second group of Member States consists of those who have a strong interest in a far-reaching development partnership with ACP partners, notably the Scandinavian countries and other EU15 countries who do not have a colonial past. Mainly at this stage they want to align the post-Cotonou with the Global Agenda for Sustainable Development, and to have a thorough assessment of how the current Cotonou Agreement functions.

The third group are those who have strong bilateral interests in cooperation with ACP countries, such as Member States with former colonies, although surprisingly also supported by some others in their line on external cooperation. They argue for a less drastic reframing of the existing Cotonou Agreement than the second group, and stress that a legally binding agreement along the same lines is highly desirable.

Because the African, Caribbean and Pacific States are so different, and this heterogeneity is already reflected in the way the Cotonou Partnership functions. When it comes to political dialogues or implementation of EPA's, all Member States consider the option of a lighter umbrella structure for the ACP as a group, with more specific agreements for the three regions.

The three pillars of Cotonou: trade cooperation, political dialogue and development aid, are a solid basis for an agreement. However, the European Development Fund (EDF) is also generally considered as the main driver for the partnership. Given that the Economic Partnership Agreements (EPAs) outsourced trade into separate agreements, the Cotonou Partnership Agreement (CPA) consists mainly of a donor-recipient relationship whereby the EDF serves to facilitate political dialogue. This contains elements that are often thought to be more in the interest of the EU than of the ACP partners, such as fundamental EU values and LGBTI rights.

The political dialogue is considered a crucial element of the Cotonou Agreement by all Member States that is certain to continue post-2020. The structured format of the dialogue, which allows to discuss important issues such as human rights, good governance and rule of law, is for many the most important reason to build further on the Cotonou *acquis*, or at least to retain the positive elements.

All Member States strongly expressed that the EU is by no means considering dropping fundamental values in relations with partners. All Member States find respect for human rights, democracy and rule of law absolutely crucial elements of the political partnership, for some this also includes gender equality and LGBTI rights. There are however concerns about traction for an agreement when partners on both sides have diverging positions on the content of the political dialogue.

Trade cooperation is 'outsourced' to Economic Partnership Agreements (EPA's) and it is not clear how they will be taken up in the post-Cotonou agreement. None of the Member States expressed elaborate ideas or positions on this point. However, the difficult negotiations before concluding the EPA's, and the reluctance to ratify and implement the agreements in some partner countries, make that some Member States consider the option that either the EPA's should be continuously be evaluated and improved, or either should stop existing altogether.

In summary, based on the interviews, the merits of Cotonou lie in its unique focus on poverty and development in a legally binding agreement providing a platform for political dialogue with the ACP group consisting of 79 countries. There is potential to come to joint EU-ACP positions in multilateral fora. The EU remains the largest ODA donor for ACP countries to date and through the partnership a formalised political dialogue offers a platform for relations with the EU as an important global partner on the one hand, and with a large group of countries with strategic potential on the other hand.

Global changes since the Cotonou Agreement was signed in 2000 should however be taken into account. The post-2015 universal agenda offers scope for a real strategic partnership in EU external relations, among equal partners. In this view, a donor-beneficiary relationship based on the EDF and political dialogue including sometimes strongly opposed EU values is not fit for purpose. In order to address global changes as well as taking into account the enlargement of the EU in relation with ACP countries, strategic interests on both sides would have to be defined and taken up in a flexible way to result in a strategic partnership.

**\* DISCLAIMER**

Tina Tindemans worked 6 months at the Permanent Representation of Belgium to the EU where she focused on EU-ACP relations and followed discussions in the ACP working party of the Council.

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They write this article in their own name; opinions and ideas do not represent the Belgian, nor the European positions. An earlier draft of this paper has been circulated among the representatives in the ACP working group along with a number of other non-papers by several Member States, as a preliminary input to the debates and positioning further on in the process of the follow-up to the Cotonou Agreement.

Every reference to 'Member States' is only an indication of preliminary views and personal insights from informal interviews with Member State Representatives in May and June 2015. No formal positions are quoted in this paper.

This paper was written by two external authors whose views do not necessarily represent those of ECDPM.

**ECDPM Briefing Notes**

ECDPM Briefing Notes present policy findings and advice, prepared and disseminated by Centre staff in response to specific requests by its partners. The aim is to stimulate broader reflection and debate on key policy questions relating to EU external action, with a focus on relations with countries in the South.

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