

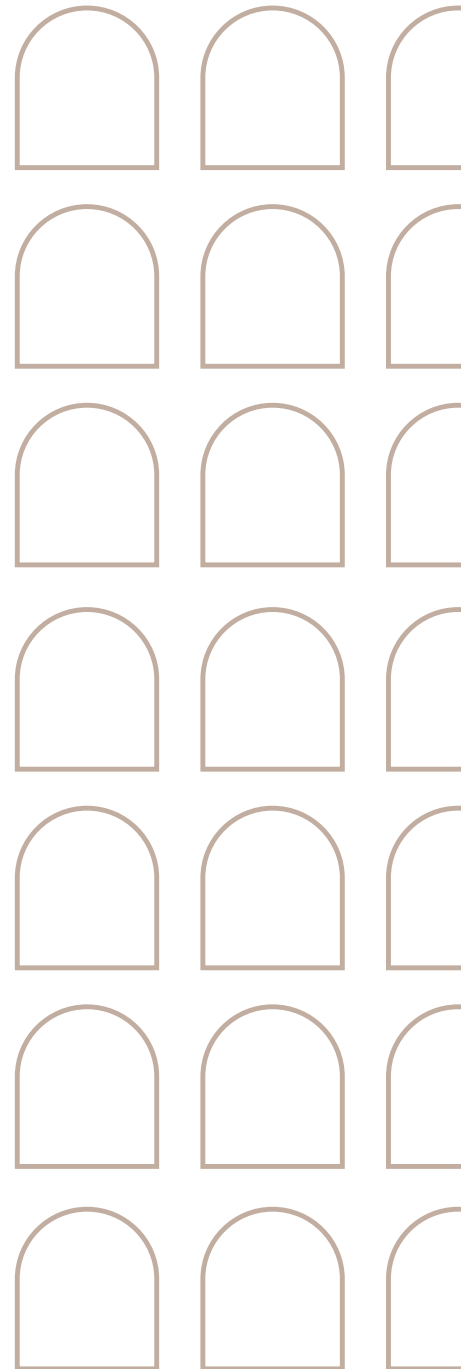
STG Policy Papers

POLICY BRIEF

FROM COTONOU TO POST-COTONOU: WHICH WAY FOR THE EU/ACP PARTNERSHIP?

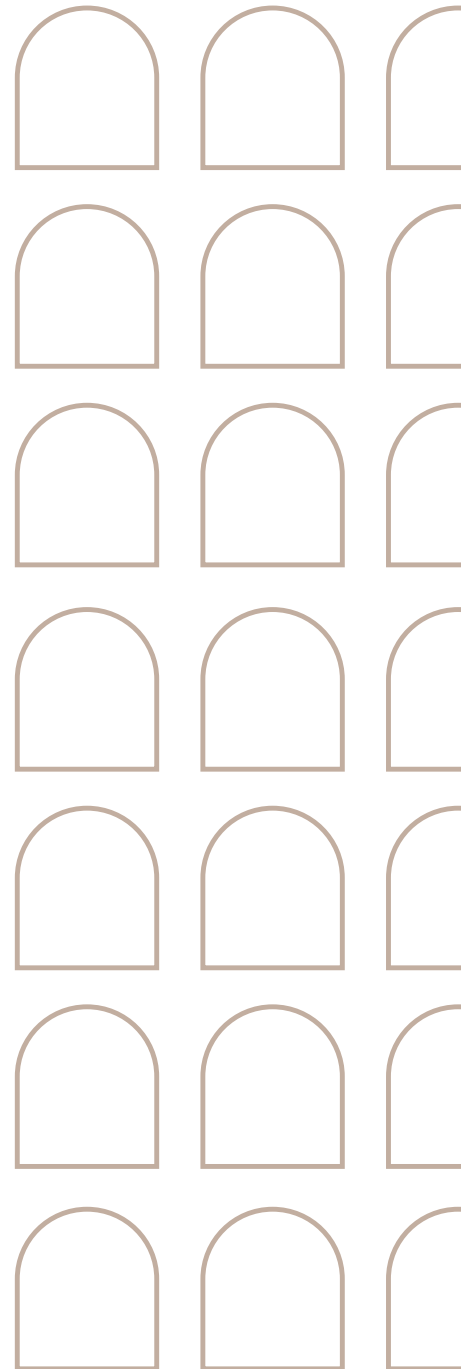
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EXECUTIVE SUMMARY

The EU/ACP cooperation framework, which was already a unique international agreement, is becoming increasingly politicised with a shift of focus to non-state actors and instruments. However this transformation seems to be at the expense of states, traditional stakeholders of this partnership, which may not have enough incentive to continue implementing this agreement since they no longer feel they are in the driver seat. It is therefore necessary to reassure them that the mutation of the cooperation is not targeting them but is meant for the benefit of all the stakeholders and the community. On that will depend the forthcoming ratification and subsequently the implementation of the so-called post-Cotonou agreement which has been initialled.



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1. BACKGROUND: THREE YEARS OF INTENSE NEGOTIATIONS

On 28th September 2018, the European Union (EU) and the then African, Caribbean and Pacific (ACP)¹ Group of states started negotiating, as provided for by article 95 of the Cotonou Partnership Agreement signed in 2000², the new legal framework that will organise their relations after the expiry in 2020³ of the said Agreement. Divided into three key action areas (development cooperation, political dialogue and trade), the Cotonou Agreement, which was aimed at eradicating poverty in the beneficiary ACP countries, was unable to meet expectations as the ACP countries remain among the poorest in the world.⁴ Taking that into consideration, the EU and the ACP parties had the intention of not simply rolling over the former agreement, but adapting the various aspects of their cooperation to meet the multiple challenges of a post Covid-19 world.

From the beginning of the negotiations to the initialled of the post-Cotonou agreement on 15th April 2021, it appears that one of the means of this adaptation is a shift in focus from a purely state-centered approach to multiple stakeholder cooperation. Taking into account the failure of past agreements to trigger a virtuous development process in ACP countries, the parties realize that the achievement of this objective requires the promotion of dialogue and constant collaboration between states and non-states actors in public policies. Even though the negotiations' mandates were adopted by institutions⁵ representing states' interests in both parties, an open space was created to bring in a much larger number of other players (particularly ACP-EU parliamentarians, business entities, NGO's and other civil society

organisations). These non-state players did important advocacy work towards the Chief negotiators⁶ to define and refine the future priorities of a partnership, whereby they will be called upon to play a greater role in its implementation.

One can infer that in a subtle way the European Commission⁷ is creating the conditions for reducing states influence in a partnership that historically speaking was designed to reinforce special ties⁸ between European community member states and newly independent ACP countries.

Based on this observation, the hypothesis of a transnationalisation⁹ of this special international partnership has never been more relevant. The extent to which this hypothesis can be verified will be the main focus of our paper.

2. TRANSNATIONALISATION OF THE EU/ACP PARTNERSHIP

It should be acknowledged that the transnationalisation process of the EU/ACP cooperation is reflective of the several changes¹⁰ that have deeply modified the nature of international relations in recent years. In the specific case of this partnership, three main elements illustrate these transformations: the politicisation of the partnership to face common challenges, the rise of non-state actors at the heart of the cooperation and the end of states' primacy on the means of cooperation.

2.1 Politicisation of the cooperation as a way to handle common problems

Contrary to the Cotonou Agreement which was development-led¹¹, the first article of

1 It has become a fully-fledged international Organisation (The Organisation of African, Caribbean and Pacific States) since the entry into force on April 5th 2020 of the revised Georgetown Agreement that had created this Group in 1975.

2 Signed in Cotonou on 23rd June 2000, revised on 25th June 2005 in Luxembourg, and on 22nd June 2010 in Ouagadougou.

3 Due to some delays caused particularly by the impact of Covid-19 on agenda, the negotiations went beyond the expiry date. A transitional period was given and renewed until June 2022. So far, the draft of the future agreement has been initialed and it is awaiting the signature and ratification by the parties.

4 Balleix Corinne, *L'aide européenne au développement, la documentation française*, 2010.

5 The European Council for EU and the ACP Council of Ministers.

6 Robert DUSSEY, Togolese minister of Foreign Affairs for the ACP and Jutta URPIAINEN, EU Commissioner of international Partnership.

7 Which in reality is the institution that determines the momentum of these negotiations and subsequently the implementation of the Agreement.

8 These special ties consist of financial and commercial preferences given to ACP countries whose products were entitled duty-free entry into the European market. These preferences were completed by two compensation mechanisms on Agricultural (STABEX) and Mining (SYSMIN) export revenue.

9 Transnationalization can be defined as "regular interaction across national boundaries when at least one actor is a non-state agent or does not operate on behalf of national government," Thomas Risse-Kappen, *Bringing transnational relations back in : non-state actors, domestic structures and international institutions*, Cambridge University Press, New York, 1995, p 3.

10 See Andrew F.Cooper, Jorge Heine and Ramesh Thakur, "The challenges of 21st century diplomacy," *The Oxford handbook of modern diplomacy*, Aug 2013 ; and Michael N. Barnett and Kathryn Sikkink, "From international relations to global society," *The Oxford handbook of international relations*, Sept. 2009.

11 Article 1. "The parties hereby conclude this Agreement in order to promote and expedite the economic, cultural and social development of the ACP states (...)".

the future agreement clearly indicates that the cooperation will be more political.¹² This politicisation, though it existed in the Cotonou Agreement¹³, will be more visible in the post-Cotonou partnership in terms of searching for common ground not only to implement its objectives but also to resolve potential problems that may arise in the process.

This can be explained by a greater awareness on the European side that improvement in the strategic priority areas of the partnership within ACP states (especially African¹⁴ states, which constitute 48 out of the 79 ACP states) is necessary for a sustainable peaceful political and socio-economic environment in their own countries. These priority areas include: human rights, democracy and governance; peace and security; human and social development; inclusive, sustainable economic growth and development; environmental sustainability and climate change; migration and mobility.

In order to achieve success in the above-mentioned six key areas, article 3 of the draft Agreement establishes a Partnership Dialogue, known in the Cotonou Agreement as the Political Dialogue. This a platform whereby the parties exchange on all areas of the “agreement leading to commitments and, where appropriate, actions on both sides, for the effective implementation of this agreement” are taken¹⁵. In this exchange framework, beside conditionalities, states will have to deal with other actors, with whom the EU is expressing the need to meet on a B2B configuration in order to handle specific issues.

Furthermore, this politicisation moves the relationship from what it has been since the successive Yaounde and the Lome Conventions – a donor-recipient cooperation. Instead, now it builds a real partnership with a strong sense of togetherness between the parties so as

to face their common challenges of, among others, climate change, pandemic, terrorism, economic crises, irregular migrations and human trafficking. Indeed, such challenges can no longer find lasting solutions through various unilateral and preferential measures¹⁶ nor by the sole action of individual states or governments.

2.2 Rise of non-governmental actors at the heart of the cooperation

It is worth recalling that, at the very base of the EU/ACP partnership was the birth of the state, namely ACP countries who took independence in the early 1960s from their colonial masters. With the evolution of the international structure, this cooperation has witnessed the arrival of non-state actors who more or less play a role in shaping the partnership. These non-state actors, which include among others business sector, economic and social partners, trade unions, non-governmental development organisations, women’s associations, research institutes, the EU/ACP joint Parliamentary assembly, played a major role during the recent negotiations in voicing what should be the main priorities of the future Agreement. Therefore in the post-Cotonou agreement under negotiation, non-state actors in all their forms will not only be recipients of aid as in the Lome Conventions, nor merely consulted by the EU on a range of policy issues as was the case with the Cotonou Agreement¹⁷, but will also be fully integrated as actors in the Partnership Dialogue¹⁸.

The rise of these actors that do not represent states’ interests in this partnership can be inferred from the recent internal debate within the EU as to who should sign on behalf¹⁹ of the European side the future agreement. If the Commission advocated for an exclusive competence of the EU, the Council on its

12 Article 1.1 draft post-Cotonou Agreement : “This Agreement establishes a strengthened political partnership between the Parties (...)”.

13 Article 8 on the structural political dialogue and article 96.

14 With a general umbrella and three regional pillars, the structure of the post-Cotonou Agreement takes into account the specificities of each region. It is likely that the African protocol becomes the main platform of an integrated and global partnership between the EU and the African continent.

15 Article 3.1 of the draft post-Cotonou Agreement.

16 Jean-Claude BOIDIN, ACP-UE relations: the end of preferences? ECDPM, discussion paper N°289, December 2020.

17 The Courier magazine, “Non-states actors, bigger players in Cotonou,” 50 years of ACP EU cooperation, Spécial issues, March 2008

18 Article 3.4 of the draft post-Cotonou Agreement “The Parties agree that national parliaments, and, where appropriate, representatives of civil society organisations and the private sector, shall be duly informed, consulted and enabled to feed into the partnership dialogue. Regional and continental organisations shall be associated with the dialogue, as appropriate.”

19 Vince Chadwick, EU institutions in power struggle over African, Caribbean, Pacific pact, Devex, 15 June 2021. <https://www.devex.com/news/eu-institutions-in-power-struggle-over-africa-caribbean-pacific-pact-100131>

part proposed a hybrid deal falling within the competence of both the EU and each of its member states. Though the later position is likely to be retained, this debate gives an idea of the struggle for visibility between states and other actors, especially when it comes to activating the means of cooperation.

2.3 End of states' primacy on the means of cooperation

The principal financial instrument of the Cotonou Agreement and its predecessors was the European Development Fund (EDF). Its nature and functioning gave a central place to the states both of the EU and the ACP. For the EU member States, though it was managed by the European Commission, the EDF was an intergovernmental financial instrument, outside EU budget, provided by member states voluntary donations. As such, the EDF had its own financial rules and procedures which gave donor states an important voice in determining its use and thereby influencing the priorities of the cooperation. That's why, for many years, some of these states were reluctant²⁰ to the long-standing idea of the inclusion of EDF in the EU budget which will give a more important role in its functioning to institutions like the EU Parliament²¹ which represent the interests of EU citizens.

Likewise, a similar reason can explain the preference of ACP countries during the negotiations to maintain the EDF as the main financing instrument of the post-Cotonou agreement. In effect, with the EDF framework, the means of cooperation was part of the partnership negotiation process. That gave it a contractual character that rely on a joint management between the EU and ACP recipient states which designate a National Authorising Officer who plays a part in the allocation of predictable resources given to its country.

With the end of the EDF and the adoption of a unique Neighbourhood, Development and International Cooperation Instrument

(NDICI-Global Europe) within the EU financial framework for the period 2021-2027, these ACP states will have less or no responsibility²² in aid programming which will now depend on EU's unilateral decisions. That has already started in the negotiations where very little had been said about the means of cooperation. Just the recalling of EDF's general principles of predictability, dialogue and ownership and a mere indication in article 5 that the EU commits to "*making available the appropriate level of financial resources in line with its internal regulations and procedures*". The EU has finally adopted unilaterally its new NDICI that merges several former EU financing instruments among which the EDF. With an overall allocation of €79.5 billion, it will be divided to rapid response mechanism, thematic programme and geographic programme.

It is clear from the above that EU states and ACP countries have both lost, exclusive ownership for the first and the contractual character for the second, over the means of the cooperation. Hence, this could constitute an important challenge to the partnership.

3. RECOMMENDATIONS

The transnationalisation of ACP/EU cooperation highlighted above, though a process that may combine states and non-state actors to deliver results for the benefit of the entire stakeholders, seems to be made at the expense of the states. In response, they could be reluctant in implementing the content of the partnership. To avoid this, our main conclusive recommendation is that there should be an alignment of EU's actions and projects with the national development strategy of each ACP country, so as to give states enough guarantee that they are still at the centre of this cooperation, the rise of other actors notwithstanding. Alignment is the second of the [five aid effectiveness principles](#) contained in the Paris Declaration of 2005 that aims to improve the quality of aid and its impact on development. As the EU is drafting with partner countries the multiannual indicative

20 European Parliament (Research service), European Development Fund, joint development cooperation and the EU budget : out or in, Nov 2014, p.23-26.
21 "By integrating the EDF into the EU's budget, the European Parliament will have an increased say and oversight in the EU's sustainable development action," EC, Global Europe: the neighbourhood, development and international cooperation instrument, 9 June 2021.
22 Jean-Claude Boidin, op.cit., p5.

program for the period that covers its new financial framework (2021-2027), it is important to make sure that the selected priorities areas match local strategies and that national governments are associated not only in identifying these areas but are consulted over the allocation of funds, which should allow foreign currency transfer.

In the same vein, concerning the importance of non-state actors, especially non-governmental organisations, the EU should ensure that the NGOs or associations it is or intends to work with comply with the regulations of the country in which they operate, and that they have obtained all the necessary authorisations. A constant partnership dialogue will help improve this alignment for an effective implementation of the so called post-Cotonou Agreement.

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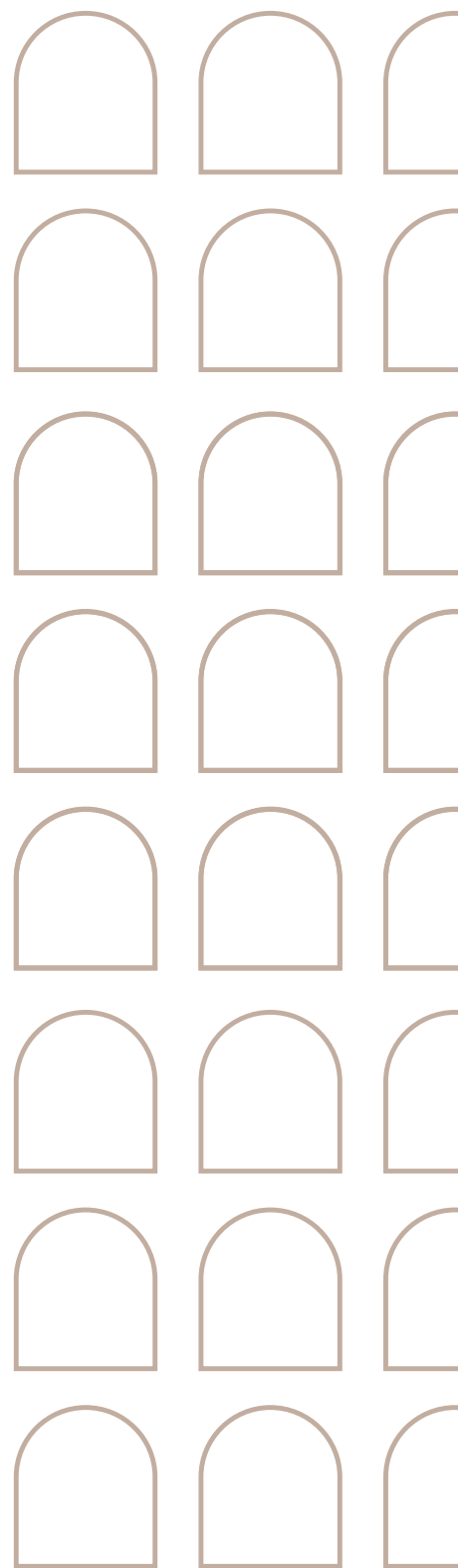
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