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**The Cotonou Agreement.**  
Analysis of the current ACP-EU  
partnership and its prospects after 2020.

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## LIST OF ACRONYMS AND ABBREVIATIONS

AASM	Associated African States and Madagascar
ACP	African, Caribbean and Pacific
AU	African Union
BRICS	Brazil, Russia, India, China and South Africa
CDE	Centre for the Development of Enterprise
CFSP	Common foreign and security policy
CSO	Civil Society Organisation
CSS	Country Support Strategy
CTA	Technical Centre for Agricultural and Rural Cooperation
DG DEVCO	European Commission Directorate General for International Cooperation and Development
DG ECHO	European Commission Directorate General for European Civil Protection and Humanitarian Aid Operations
DG TRADE	European Commission Directorate General for Trade
EAC	East Africa Community
EBA	Everything-But-Arms
EC	European Commission
ECOWAS	Economic Community of West African States
ECU	European Currency Unit
EDF	European Development Fund
EEAS	European External Action Service
EEC	European Economic Community
EEMP	Energy Efficiency Management Programme
EIB	European Investment Bank
EP	European Parliament
EPAs	Economic Partnership Agreements
EPG	Eminent Persons Group
EU	European Union
EUA	European Unit of Account
FTA	Free Trade Area
GATT	General Agreement on Tariffs and Trade

GNI	Gross National Income
IF	Investment Facility
JAES	Joint Africa-EU Strategy
JCES	Joint Caribbean-EU Strategy
JPA	Joint Parliamentary Assembly
LICs	Low Income Countries
LDCs	Least Developed Countries
MAR	Market Access Regulation
MDGs	Millennium Development Goals
MEP	Member of European Parliament
MICs	Middle Income Countries
NAO	National Authorising Officer
NIP	National Indicative Programme
NSA	Non-State Actor
OCTs	Overseas Countries and Territories
PSDPs	Private Sector Development Programmes
RAO	Regional Authorising Officer
SADC	Southern African Development Community
SDGs	Sustainable Development Goals
SIDS	Small Island Developing States
SMEs	Small-Medium Enterprises
STABEX	Stabilisation of Exports System
SYSMIN	System for Mineral Products
UMICs	Upper Middle Income Countries
UN	United Nations
WTO	World Trade Organisation

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## ABSTRACT

Questa tesi magistrale nasce con lo scopo di proporre un'analisi dettagliata dell'Accordo di Cotonou, un importante trattato bilaterale stipulato nel giugno del 2000 tra l'Unione Europea e il gruppo degli stati dell'Africa, dei Caraibi e del Pacifico (gruppo ACP), e di fornire, più in generale, una panoramica delle relazioni ACP-UE, a partire dalle loro origini fino a giungere alle loro prospettive future dopo il 2020. Di fatto, nel febbraio 2020, è previsto che l'Accordo esistente si estingua, inducendo quindi le parti contraenti a discutere sin da ora sui risultati ottenuti fino ad oggi, sui cambiamenti verificatesi e sulle possibilità di rinnovo del loro rapporto di partenariato.

La motivazione e l'interesse verso questo argomento sono il risultato di uno stage curricolare svolto lo scorso anno presso il dipartimento di Cooperazione allo sviluppo della Rappresentanza Permanente d'Italia per l'Unione Europea a Bruxelles. Durante i tre mesi di tirocinio ho avuto la possibilità di approfondire le conoscenze sull'Accordo di Cotonou e di partecipare ad incontri istituzionali riguardanti sia gli attuali rapporti tra l'UE e il gruppo di paesi ACP, che i possibili risvolti futuri del loro partenariato. Questa esperienza mi ha permesso di raccogliere anche una notevole quantità di materiale che si è rivelato molto utile nella redazione della tesi stessa.

Il lavoro è stato basato sull'analisi del testo originale dell'Accordo di Cotonou e sulle sue revisioni (2005 e 2010), sullo studio del contenuto delle precedenti Convenzioni di Yaoundé (1963 e 1969) e di Lomé (1975, 1980, 1985, 1990), e sui volumi di altri autori che in passato hanno voluto trattare l'argomento in questione. Ciò nonostante, è doveroso sottolineare che sono stati di altresì fondamentale importanza tutti i documenti prodotti e forniti dalle istituzioni europee (Parlamento, Consiglio e Commissione) e dal segretariato del gruppo ACP, spesso rintracciabili anche on-line. Infine, tra le fonti utilizzate vanno citati i molteplici studi e ricerche effettuati e regolarmente pubblicati dagli esperti del Centro europeo per la gestione delle politiche di sviluppo (ECDPM), un *think tank* indipendente che si occupa principalmente di preparare report e analisi politiche concernenti le strategie di cooperazione allo sviluppo attuate in Europa ed in Africa.

Il corpo della tesi è suddiviso in tre capitoli, ciascuno dei quali affronta una delle seguenti tematiche: un quadro dell'Accordo di Cotonou e dei suoi principi fondamentali, la presentazione del lungo processo storico delle relazioni tra il gruppo ACP e l'UE a partire dalla Convenzione di Yaoundé nel 1963 fino al giorno d'oggi, e un'analisi dei fattori che

influenzeranno la decisione sul futuro rapporto ACP-UE comprendente anche i possibili risvolti futuri. Ogni capitolo è stato poi ulteriormente diviso in sotto capitoli, cosicché il testo diventi più semplice da comprendere e la sua organizzazione schematica permetta al lettore di rintracciare agevolmente i suoi contenuti anche in un secondo momento. Sono stati infine allegati delle appendici in cui delle tabelle e dei grafici aiutano ad approfondire ulteriormente alcuni aspetti del tema trattato in questa tesi.

Conformemente, la tesi inizia con un'accurata analisi dell'Accordo di Cotonou. Quando le parti contraenti, UE e gruppo ACP, firmarono il trattato il 23 giugno 2000 nella capitale del Benin, erano consapevoli dell'importanza e innovatività che questo aveva sia a livello europeo-ACP, che a livello internazionale. Molti professionisti del settore lo hanno definito infatti un modello unico di cooperazione tra nord e sud del mondo per le sue particolari caratteristiche, quali: la sua natura giuridicamente vincolante, e la sua impostazione inclusiva che affronta tematiche commerciali, di cooperazione allo sviluppo e politiche.

In conformità con l'Art. 93, l'Accordo di Cotonou è entrato in vigore il 1 Aprile 2003, per un periodo di vent'anni, avendo come obiettivo principale quello di ridurre, ed in ultimo eliminare, la povertà, e favorire lo sviluppo economico, sociale e culturale dei paesi firmatari, agevolandone la progressiva integrazione nell'economia mondiale. Al fine di raggiungere i risultati prefissati, l'accordo è stato costruito su tre pilastri fondamentali: cooperazione per lo sviluppo, commercio e dimensione politica.

1) Il primo di questi elementi cardine, la cooperazione allo sviluppo, si basa essenzialmente sulla concessione da parte dell'UE di fondi finanziari destinati a progetti che supportano la crescita economica e sociale dei paesi ACP. Tali fondi, diversamente da quanto succede per altri tipi di finanziamenti sostenuti dall'UE che provengono dal budget europeo generale, sono ricavati da uno strumento appositamente creato dall'UE per raccogliere gli aiuti economici destinati agli stati ACP e ai paesi e territori d'oltre mare (PTOM), il Fondo Europeo di Sviluppo (FES), il quale si compone principalmente dei contributi degli Stati Membri. Il FES venne istituito per la prima volta nel 1957 con il Trattato di Roma ed è regolamentato da appositi protocolli finanziari allegati all'accordo. Ad oggi è in vigore l'11° FES, che prevede un budget di € 30,5 miliardi da destinare a paesi ACP e PTOM attraverso i due canali ufficiali dei quali il FES dispone: la "Grant Facility", uno strumento gestito dalla Commissione Europea per la concessione di contributi a sostegno di progetti a lungo periodo; e l' "Investment Facility", dispositivo

amministrato dalla BEI che si occupa della concessione di prestiti e capitali di rischio al settore privato.

2) Il secondo, ma forse il più importante dei tre pilastri dell'Accordo di Cotonou, è il commercio, un settore che ha subito un grande rinnovamento a partire dal 2000. Nei trattati precedenti, infatti, i rapporti commerciali tra l'UE e gli stati ACP si basavano su preferenze commerciali non reciproche, il che significava che la maggior parte dei prodotti provenienti dai paesi ACP potevano accedere senza alcun dazio al mercato europeo. I termini del nuovo accordo, però, prevedono che vengano create aree di libero scambio che permettano scambi commerciali senza barriere tariffarie tra l'UE e i paesi ACP, regolati da appositi Accordi di Partenariato Economico (APE). Inoltre, un'altra grande novità riguarda il rispetto delle regole imposte dall'Organizzazione Mondiale del Commercio (WTO): l'Accordo di Cotonou impone infatti il rispetto del principio di reciprocità e l'eliminazione di ogni forma di accordo preferenziale che favorisca una nazione rispetto alle altre. Le parti avevano previsto di completare l'entrata in vigore degli APE entro il gennaio 2008, tuttavia, stando ai dati del 2016, solo la regione dei Caraibi (CARIFORUM) ha completato la procedura di attuazione dell'APE, così come anche la regione sudafricana (SADC), mentre per le altre aree le trattative non sono ancora del tutto concluse.

3) La dimensione politica è infine il terzo caposaldo delle attuali relazioni ACP-UE e ciò che rende unico nel suo genere l'Accordo di Cotonou. Oltre a disporre dei rapporti finanziari ed economici tra le parti, esso si occupa anche del rispetto di principi importanti quali: i diritti umani, la democrazia e lo stato di diritto. Non solo questi valori devono ritrovarsi in ogni azione condotta sia dall'UE che dagli stati ACP, ma le parti devono altresì instaurare un dialogo solido e continuo per promuovere una crescente consapevolezza e applicazione dello stato di diritto e del rispetto per i diritti fondamentali dell'uomo. Nel caso in cui ciò non avvenga e si verificano situazioni in cui una parte violi uno o più principi alla base della relazione ACP-UE, il trattato predispone l'attuazione di misure appropriate, quali sanzioni o la sospensione dei finanziamenti, come previsto dalla clausola di condizionalità (Art.96).

Come è già stato affermato, le parti firmatarie dell'Accordo di Cotonou sono l'Unione Europea e il gruppo di stati ACP, la prima già molto nota, il secondo forse meno per coloro che hanno una minor conoscenza dell'argomento. Il gruppo dei paesi dell'Africa, dei Caraibi e del Pacifico (ACP) è la più grande associazione intergovernativa di stati in via di sviluppo con un segretariato permanente. Istituito il 6 giugno 1975 con l'Accordo di

Georgetown, il gruppo comprende ad oggi 79 stati, (tra cui anche Cuba che però non partecipa alle relazioni ACP-UE), la maggior parte dei quali sono paesi a basso o medio reddito che rientrano nella classificazione di paesi meno sviluppati o di stati insulari in via di sviluppo.

Tuttavia, l'Accordo di Cotonou stabilisce che anche gli attori non governativi abbiano un ruolo chiave nei rapporti ACP-UE, includendo quindi il settore privato, partner economici e sociali, organizzazioni sindacali e la società civile nel partenariato. Nonostante l'approccio adottato riguardo gli incarichi affidati a questi partecipanti sia alquanto generalizzato e flessibile, poiché l'accordo non entra in profondità nel merito della questione, gli attori non governativi vengono definiti utili nella prestazione di servizi e come partner nel dialogo politico, soprattutto grazie alla loro esperienza e maggior riscontro sul campo.

Infine, il sotto-capitolo 1.3 fornisce una panoramica sulle principali istituzioni congiunte ACP-UE che permettono il miglior funzionamento e monitoraggio dell'intero accordo, quali: il consiglio dei ministri, il comitato degli ambasciatori e l'assemblea parlamentare congiunta, ed enti più specifici come il Centro per lo sviluppo delle imprese (CDE) e il Centro tecnico di sviluppo agricolo e cooperazione rurale ACP-UE (CTA).

Il secondo capitolo si focalizza invece sul processo che ha portato alla definizione dell'Accordo di Cotonou, volendo evidenziare come il rapporto tra UE e paesi ACP si sia evoluto nel tempo e adattato ai cambiamenti che si sono verificati nel corso di più di 50 anni. Il primo trattato fu infatti stipulato nel 1963 quando l'allora Comunità Economica Europea (CEE) e un gruppo di stati africani, ex-colonie di potenze europee, e Madagascar associati (SAMA) firmarono la Convenzione di Yaoundé. In questo modo, le parti riuscirono a mantenere i vantaggi derivati da condizioni economiche e finanziarie privilegiate che già si erano stabilite durante il periodo coloniale. Nel 1969, i contraenti rinnovarono l'accordo, denominato Convenzione di Yaoundé II, aumentandone la portata dei finanziamenti e offrendo ulteriori incentivi commerciali agli stati africani partner.

Un cambio più marcato nelle relazioni tra le parti si ebbe a partire dal 1973, anno in cui il Regno Unito entrò a far parte della CEE. I risultati di questa accessione furono l'istituzione del gruppo di paesi ACP, comprendente sia gli stati costituenti il SAMA sia 20 stati appartenenti al Commonwealth britannico; e la firma di un nuovo trattato CEE-ACP nel 1975: la Convenzione di Lomé I. Questo accordo si basava su un partenariato paritario e

interessava prevalentemente gli ambiti commerciali, con la predisposizione di vantaggi tariffari e non tariffari, e degli aiuti finanziari, con un incremento di fondi del 4° FES. Le principali novità introdotte con la prima Convenzione di Lomé si riassumono nella definizione del sistema di quote preferenziali a favore di quattro prodotti (zucchero, banane, carne bovina e rum) regolato da appositi protocolli; e nella creazione del regime STABEX volto a stabilizzare i proventi derivanti dalle esportazioni dei paesi ACP colpiti dalle variazioni dei prezzi di mercato.

La Convenzione di Lomé fu poi rinnovata dalle parti in comune accordo, siglando il 31 ottobre 1979 la Convenzione di Lomé II. Quest'ultima non presentava grandi differenze dal suo predecessore, ad eccezione fatta per l'istituzione di un meccanismo simile al STABEX, chiamato SYSMIN, un regime di finanziamento per sopperire alle perdite sui prodotti minerari dovute alle fluttuazioni di mercato.

Successivamente, nel dicembre 1984, l'UE e i paesi ACP, reitularono la volontà di continuare il loro rapporto di partenariato firmando la terza Convenzione di Lomé, tuttavia abbandonando le precedenti priorità di uno sviluppo industriale e basato sulle esportazioni, ma promuovendo, ora, l'autosufficienza e la sicurezza alimentare. Si decideva così di applicare un approccio più ampio e comprensivo, che rivolgeva la sua attenzione anche alla dimensione sociale e culturale, ed alla prevenzione ed eliminazione delle discriminazioni. Inoltre, per la prima volta venne espressamente riconosciuta l'importanza della conservazione delle risorse naturali per lo sviluppo dei paesi ACP, identificando la siccità cronica e la crescente desertificazione come ostacoli al raggiungimento degli obiettivi della cooperazione ACP-UE.

Gli avvenimenti degli anni Ottanta, come ad esempio l'attuazione dei programmi di aggiustamento strutturale per i paesi in via di sviluppo promosse dalla Banca Mondiale e dal Fondo Monetario Internazionale, e il crollo del Muro di Berlino con le conseguenti trasformazioni negli stati dell'Europa orientale, influirono notevolmente sulla successiva Convenzione di Lomé IV. Il nuovo accordo, stipulato nel dicembre 1989 per una durata di 10 anni, prevedeva infatti un aumento dei contributi finanziari stanziati per i paesi ACP attraverso il 7° FES, di cui una parte erano specificatamente destinati a supportare i paesi che si trovavano a dover affrontare difficoltà conseguenti alla realizzazione dei programmi di aggiustamento strutturale. Oltre a ciò, la quarta Convenzione di Lomé si contraddistinse per essere il primo trattato di cooperazione allo sviluppo contenente una clausola sui diritti umani. L'Articolo 5 sosteneva infatti che l'individuo è al centro delle strategie di sviluppo

attuate e deve vedere riconosciuti e garantiti tutti i diritti umani fondamentali, i diritti civili e politici, economici, sociali e culturali. Una revisione della Convenzione venne effettuata dalle parti dopo cinque anni per apportare gli ammendamenti necessari.

All'avvicinarsi della scadenza dell'accordo nel 2000, l'UE e gli stati del gruppo ACP ebbero la possibilità di analizzare i risultati ottenuti durante i tre decenni di partenariato, notando come, nonostante i progressi, non sempre gli obiettivi preposti erano stati raggiunti. La crescita economica nei paesi ACP, ad esempio, non era stata quella sperata sin dall'inizio, principalmente a causa dell'inabilità di questi ultimi nel sfruttare i vantaggi commerciali, ma anche per la mancanza di politiche efficaci ed infrastrutture adeguate. Conseguentemente, le parti decisero che era giunto il momento di stipulare un nuovo accordo, più innovativo, più adatto al nuovo scenario globale e più efficiente dei suoi predecessori. Il 23 giugno 2000 l'UE e il gruppo ACP firmarono quindi l'Accordo di Cotonou, in vigore ancora oggi fino al 2020.

Mancano solamente tre anni alla scadenza dell'Accordo di Cotonou e, sebbene sia previsto che i negoziati ufficiali riguardanti il futuro delle relazioni ACP-UE inizino nel 2018, le parti stanno già cominciando a discutere sulle possibilità del Post-Cotonou. Il terzo capitolo della tesi propone quindi uno studio sia dei punti deboli dell'attuale trattato valutando gli esiti ottenuti finora, sia dei cambiamenti e delle sfide da affrontare nel post-2020, che dei possibili scenari futuri.

Di fatto, nonostante la grande ambizione e completezza dell'accordo su carta, la sua concretizzazione si è rivelata talvolta difficoltosa. Gli accordi economici di partenariato ne sono un esempio, non essendo ancora stati stipulati con tutte le aree economiche identificate, e, qualora in vigore, hanno talora portato più vantaggi all'UE che ai paesi ACP. Prendendo in considerazione la dimensione politica del trattato, si può notare come in realtà le parti siano state poco propense ad instaurare un dialogo politico costante così come previsto dall'Articolo 8, come sono stati esigui anche i ricorsi alla clausola di condizionalità democratica (Art. 96). In entrambi i casi, ma con maggiore evidenza nel secondo, gli interessi storici, politici e di sicurezza hanno talvolta ostacolato l'attuazione delle procedure previste dall'Accordo di Cotonou, risultando in un nulla di fatto o in mere dichiarazioni di condanna del gesto senza nessuna azione intrapresa. Problemi sono stati ugualmente riscontrati nella gestione del FES, praticamente del tutto in mano all'UE, e nella ripartizione delle sue risorse finanziarie che privilegiano i paesi meno sviluppati, a discapito degli stati a medio reddito che devono affrontare altrettante difficoltà legate, per

esempio, alla disuguaglianza, alla povertà endemica e alla mancanza di infrastrutture. Infine anche il funzionamento delle istituzioni congiunte ACP-UE dovrà essere ridiscusso dalle parti, poiché in questi sedici anni si sono verificate numerose lacune nello svolgimento dei loro compiti e il loro potenziale non è stato sfruttato al meglio dai due partner, i quali hanno manifestato poco interesse partecipando in minima misura, quasi insignificante, ai vari incontri.

In secondo luogo bisogna considerare che, dal 2000 ad oggi, sia le parti firmatarie sia il contesto internazionale sono inevitabilmente cambiati. Solo alcuni elementi, i più significativi, sono stati presi in esame, ma ciò è sufficiente per dimostrare come l'attuale accordo ACP-UE non sia più all'altezza della situazione. Tra questi vi sono l'emergere di nuove realtà geopolitiche, principalmente rappresentate dai paesi del BRICS, che si propongono ai paesi ACP come alternative al partenariato con l'UE, offrendo alleanze commerciali sud-sud senza chiedere in cambio garanzie democratiche. Analogamente, anche i fenomeni di globalizzazione da un lato e di regionalizzazione dall'altro minano la solidità delle relazioni ACP-UE. Unione Europea e gruppo di paesi ACP non sono poi rimasti immutati ed indenni ai cambiamenti: entrambi si sono allargati, includendo nuovi Stati Membri con necessità e priorità differenti; le differenze demografiche tra i due si sono accentuate in conseguenza al continuo aumento della popolazione nei paesi ACP e ad una crescita europea quasi nulla, il che ha aggravato situazioni sociali già complicate; economicamente, la crisi finanziaria del 2008 ha colpito entrambe le parti, ma mentre l'UE ha dovuto affrontare un periodo di dura recessione le cui conseguenze permangono ancora oggi, gli stati ACP sono riusciti a mantenere una crescita economica costante durante tutto il periodo ed a riprendersi più rapidamente dagli effetti negativi della crisi. Negli ultimi anni sono inoltre emerse nuove questioni legate alla sicurezza, di cui l'Accordo di Cotonou non tratta molti aspetti. Si pensi per esempio al tema della migrazione, che coinvolge sempre più da vicino sia i rapporti ACP-UE sia quelli interni tra gli stati del gruppo ACP, o ai cambiamenti climatici che possono influenzare notevolmente lo sviluppo dei paesi più arretrati, rendendo più difficoltoso il raggiungimento degli obiettivi preposti dall'Accordo di Cotonou. Infine, anche i progressi avvenuti nel quadro delle Nazioni Unite devono essere valutati ed inseriti nel futuro trattato tra UE e stati ACP, poiché il rapporto di partenariato ACP-UE è anch'esso uno strumento attraverso il quale poter portare a termine gli impegni presi con la firma dell'Agenda 2030 e dei nuovi obiettivi di sviluppo sostenibile.



Ultimo, ma non ultimo, il terzo capitolo cerca altresì di rispondere alla domanda: quale sarà il futuro delle relazioni ACP-UE? Vengono quindi innanzitutto presentate quattro possibili opzioni, le quali consistono essenzialmente nella cessazione del partenariato ACP-UE senza conseguente rinnovo dell'accordo, nella stipulazione di tre diversi trattati con ognuna delle regioni ACP (Africa, Caraibi e Pacifico) rompendo il legame con il gruppo nella sua interezza, nella revisione dell'accordo esistente mantenendolo ma apportando i necessari ammendamenti, ed infine nella creazione di un ampio accordo composto di due parti, di cui la prima confermerebbe il partenariato tra l'UE e il gruppo ACP stabilendo i principi e valori condivisi e le linee guida da seguire, e la seconda sarebbe costituita da singoli accordi tra l'UE e le diverse regioni ACP.

In varie occasioni, l'UE ha affrontato la questione del post-Cotonou esponendo il proprio punto di vista, anche se una presa di posizione definitiva ufficiale non è ancora emersa. Gli Stati Membri appaiono favorevoli a stipulare un nuovo accordo legalmente vincolante con un approccio innovativo multidimensionale e multilaterale, che vada oltre il rapporto asimmetrico donatore-beneficiario ad oggi in atto. Gli accordi di partenariato economico verrebbero portati a termine completamente e migliorati, e i contributi destinati ai paesi ACP attraverso il FES continuerebbero ad essere erogati, ma al centro del trattato dovrebbe esserci l'impegno politico delle parti a promuovere i diritti umani, la pace e la sicurezza, lo sviluppo sostenibile, e ad affrontare congiuntamente le attuali piaghe sociali ed economiche quali i problemi ambientali e la migrazione. Il gruppo di paesi ACP, dal canto suo, ha prodotto meno documenti riguardo il suddetto tema ed è quindi più difficile stabilire un'opinione precisa. In linea di massima, i suoi Stati Membri sostengono l'importanza delle relazioni ACP-UE che dovrebbero essere quindi mantenute attraverso un nuovo accordo tra due gruppi uniti e coesi. Anch'essi hanno evidenziato la necessità di dedicare maggiore attenzione al dialogo politico e al rispetto dei suoi principi, come anche di inserire nel futuro trattato le priorità già espresse nell'Agenda 2030. I finanziamenti per gli aiuti allo sviluppo dovrebbero essere poi più mirati e calibrati per evitare inutili dispendi di denaro o il sostegno frammentato tra progetti molto simili tra loro.

In conclusione, si può affermare che l'Accordo di Cotonou, attualmente in vigore tra l'Unione Europea e gli stati del gruppo ACP fino a febbraio 2020, sia un trattato innovativo ed unico nel suo genere, volendo affrontare i molteplici aspetti di un rapporto di partenariato nella sua interezza: ambito commerciale, finanziario e politico. Si è visto infatti come la sua peculiarità risieda nella dimensione politica che si pone l'obiettivo di

portare miglioramenti non solo economici ed infrastrutturali nei paesi ACP, ma garantire altresì il rispetto dei valori umani, della democrazia e dello stato di diritto, principi la cui diffusione risulta ad oggi essenziale ma che spesso vengono tralasciati a favore di interessi più materiali.

L'Accordo di Cotonou è però solo la fase più attuale del partenariato ACP-UE. La storia delle relazioni ACP-UE è infatti costruita su un lungo processo di trattati, convenzioni, ammendamenti e perfezionamenti, che conta più di cinquant'anni. È perciò difficile immaginare la fine di un rapporto tanto consolidato e necessario per le parti dopo il 2020. Nonostante siano stati fatti evidenti progressi dalle prime Convenzioni di Yaoundé e di Lomé, e siano stati registrati risultati positivi anche dall'attuazione dell'Accordo di Cotonou, l'UE ed i paesi ACP non hanno ancora raggiunto il loro scopo finale.

D'altro canto però, è evidente che delle profonde modifiche devono essere apportate. Di fatto, la grande ambizione su carta caratterizzante l'attuale accordo, non ha sempre coinciso con la concreta realizzazione dei suoi provvedimenti, risultando in una minor efficacia sul campo. Inoltre, altri elementi hanno messo in difficoltà il perseguimento degli obiettivi delle parti, quali l'evolversi del contesto internazionale nel quale sono emerse nuove potenze e si sono accentuate le dinamiche di globalizzazione e regionalizzazione, ma anche gli ultimi sviluppi e impegni presi dalle parti nell'ambito delle Nazioni Unite.

Tutto ciò dimostra che, malgrado i suoi molteplici punti di forza, l'Accordo di Cotonou non offre più una struttura adeguata per guidare l'azione congiunta ACP-UE ed è perciò necessaria la stipulazione di un nuovo accordo. Poiché adeguare la convenzione vigente non basterebbe a renderlo finalmente efficiente, l'opzione più consona al momento sembra quella di creare un ampio accordo formato da due componenti: una più generale tra UE e paesi ACP, in cui si stabiliscono principi, obiettivi, linee guida da seguire; e una più specifica tra l'UE e le tre regioni ACP, per affrontare le problematiche e necessità peculiari di ciascuna, così da rendere il lavoro svolto dalle parti ancora più valido. Tuttavia, il futuro delle relazioni ACP-UE verrà formalmente discusso tra le parti a partire da settembre 2018 e solo dopo diciotto mesi potremmo sapere con sicurezza la direzione intrapresa nel post-Cotonou.



## INTRODUCTION

The European Union and the African, Caribbean and Pacific Group of states are two relevant international players. The former is probably the best known, since it is easy to heard or read about EU strategies in our every day-life and it affects us first-hand, in some way or another. The latter, instead, is perhaps familiar to a fewer number of people, mainly those who are interested in European and international studies or that work in this field eventually. On 23 June 2000, these two actors signed an agreement that established what is globally considered a unique form of North-South development cooperation. It is the so called Cotonou Agreement, an holistic and inclusive arrangement adopted for a period of 20 years and consolidating the long-standing economic, financial and political ties between the ACP Group and the EU.

The Cotonou Agreement and the ACP-EU partnership relation are exactly the issues that this dissertation wants to address. Its objective is to offer a comprehensive and exhaustive overview of the Partnership established between the ACP Group of states and the European Union, focusing in particular on the analysis of the current state of play of ACP-EU relations as well as on the investigation of their prospects beyond 2020, the year in which the Cotonou Agreement is due to expire.

Accordingly, the research starts with an in-depth study of the Cotonou Agreement, which provides the reader with the most accurate information about the current relations between the ACP Group and the EU, and explains which are the elements that make their Partnership unique of its kind. Chapter I explores the legal values and principles at the basis of the ACP-EU Partnership, the provisions that regulate it, and the mechanisms that make it works. Equally, some interest is paid to the history, the major features and the institutional bodies characterising the two contracting Parties of the Agreement, since their peculiar traits and necessities are inevitably linked to the implementation and functioning of the Partnership.

Consistent with the overall objective of this dissertation, Chapter II builds on the idea that there is no present nor future without past. Therefore, it tracks the main stages of the ACP-EU relations over the course of history, starting from the first deals in 1963, until it comes to the establishment of the Cotonou Agreement in 2000 and, in the end, to the present day. Through a comprehensive analysis of the different deals the ACP Group and the EU have concluded in the last fifty years, this section intends to show the process that led the

Parties to the signature of the Cotonou Agreement and their ability to always renew the cornerstones of their relationship, adapting to the many changes that occurred in the second half of the Twentieth century within the ACP-EU dimension and in the global environment.

Finally, after having considered the present and past history of the ACP-EU Partnership, Chapter III draws the attention to the future of the relations between the two actors. From the moment that the Cotonou Agreement will expire in a three-year time and that the post-2020 is still uncertain, the third and last part of this dissertation reflects on the factors that could influence the future shape of ACP-EU relations, and discusses which are the possible forthcoming scenarios of their Partnership. To do so, the chapter deals firstly with the weaknesses of the existing Agreement that should be overcome, secondly with the new challenges the Parties have to address, and thirdly with some potential options for the Post-Cotonou.

In order to allow the reader to go into more detail on the matter, and develop its own opinion, the thesis is provided with eight Annexes containing more specific data on the issues tackled.

At the end of this dissertation, the reader should have realized why ACP-EU relations are so relevant for the Parties and which are the strengths of the Cotonou Agreement, but, at the same time, it should be quite clear that the actual Partnership is not worthwhile anymore, and some changes are needed.

The drafting of the three chapters that actually constitute the *corpus* of the dissertation has involved the use of many different sources, in accordance with the specific approach employed and the elements emphasised in each section. As a result, it should be underlined how the study of the entire Cotonou Agreement and of its 2005 and 2010 revisions has been necessary to develop the first chapter. Conversely, Chapter II has been mainly based on the selection and revision of historical or economic analysis provided by other authors' volumes on ACP-EU relations, but the use of the texts of the several past conventions established between the two Parties has proved to be equally important. Official documents, sector-specific evaluations and researches have ultimately contributed to the drawing up of the last third chapter, which has required a higher degree of personal data-processing and critical analysis, since fewer works on this issue have been produced and are available yet.

It is then worth mentioning the fundamental role that the resources delivered through the institutional channels and the ECDPM webpage have played during the whole period of development of this dissertation. As a matter of fact, the great variety of on-line materials offered by the European Union, the European Commission, the European Council and the Secretariat of the ACP Group (from staff working documents, to press releases, to joint decisions and declarations) have given a great aid in the investigation of the actual state of play of ACP-EU relations and of the Parties' position on the Post-Cotonou. The other important source of information has been the European Centre for Development Policy Management (ECDPM), an independent "think and do tank" composed of more than 70 members that regularly shares useful political analysis and statistics concerning international cooperation and development policies in Africa and Europe. ECDPM's reports and studies have been frequently checked and mentioned in the bibliographical references of this research.

Examining more in depth the Cotonou Agreement and more in general the Partnership between the ACP Group of states and the EU have been an interesting and satisfying work. The motivation and inspiration to tackle this subject have come during a period of internship at the Cooperation and Development division of the Permanent Representation of Italy for the EU, where I had the opportunity of knowing more about an issue I had only sometimes heard about during my university career, as well as of participating to some interesting institutional debates concerning the current state of ACP-EU relations and their future. Writing this dissertation has thus been the most appropriate conclusion of my work experience and of my university career. With it, I hope to somewhat contribute to give an exhaustive overview of the ACP-EU Partnership under the Cotonou Agreement and to provide for a complete study of its future outcomes, useful for both professionals of the field and people curious about international and European policies.



**CHAPTER 1**  
**OVERVIEW ON THE COTONOU AGREEMENT**



# 1. OVERVIEW ON THE COTONOU AGREEMENT

Cooperation between the European Union (here also referred to as the EU) and the African, Caribbean and Pacific Group of states (here also referred to as the ACP Group) dates back to 1975, when a small ACP Group of countries and the European Community signed the first Convention of Lomé. This was the first step of “the most comprehensive and accomplished form of “attack force” on poverty and underdevelopment in the field of international cooperation, bringing together [an] armoury of means and provisions”<sup>1</sup>.

Starting from this new-born international economic relationship, the Parties worked together for almost twenty-five years, building a new model of development cooperation, mainly focused on the principles of dialogue, partnership, financial support and contractually agreed rights and obligations, which some scholars define the “culture of ACP-EC cooperation”<sup>2</sup>. It was precisely in the framework of the “culture of ACP-EC cooperation” that the Cotonou Agreement emerged, being the main accomplishment of this long-lasting tradition.

The Cotonou Agreement is formally known as the “Partnership Agreement between the members of the African, Caribbean and Pacific Group of States on the one part, and the European Community and its Member States on the other part”. As the title itself suggests, the Parties involved in the Agreement are the European Community, which has today become the European Union, and its Member States on the one side; and the group of African, Caribbean and Pacific countries on the other side. The Agreement was signed on 23 June 2000 in Cotonou, the most populated city of the Western African state of Benin.

In conformity with Article 93, establishing the timing and procedures for the entry into force of the Agreement, it came into effect “the first day of the second month following the date of the deposit of the instrument of ratification”, that is to say, on 1 April 2003, after being ratified by two thirds of the ACP states (52 out of 77), the 15 Member States of the European Union, and the European Community.<sup>3</sup> The Agreement was concluded for a period of twenty years starting on 1 March 2000, and revisions are allowed every five

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<sup>1</sup> François-Xavier Ortoli, Speech delivered at the signing ceremony of the Lomé Convention, 28 February 1975, reported in *The Courier no. 31- Special Issue*, Brussels: Commission of the European Communities, March 1975, p. 20.

<sup>2</sup> ECDPM, *The Cotonou Agreement: A User’s Guide for Non-State Actors*, Brussels: ACP Secretariat, 2003, p. 11.

<sup>3</sup> Cotonou Agreement, Ratification and entry into force, 6875/03, Brussels: European Council, 27 February 2003.

years. Accordingly, the Cotonou Agreement was amended by the subsequent agreements signed on 25 June 2005 in Luxembourg and in Ouagadougou on 22 June 2010.

With the implementation of the Cotonou Agreement, the Parties committed towards a closer cooperation, but most importantly, they affirmed their awareness of the need for adjustments and changes.<sup>4</sup> In this respect, the Agreement was conceived as the beginning of a new stage in the history of the relationship between the ACP Group of states and the European Union, a new momentum for their Partnership. By mentioning the words of the former European Commissioner for Development and Humanitarian Aid, Poul Nielson, it was “a reform of the spirit, the objectives and the practice of the cooperation” and “an important component of international efforts aimed at promoting sustainable development and reducing poverty”<sup>5</sup>.

Equally, the Cotonou Agreement had an enormous echo in the international environment, where it was celebrated as a “unique form of North-South cooperation”<sup>6</sup>, actually being the major financial and political framework in the field of North-South cooperation. Due to its contractual and legally binding nature; its inclusive approach which comprises trade, development cooperation and political dialogue; and its institutional framework based on joint institutions, it represented indeed a great innovation, a step ahead in the gruelling path of international development cooperation.<sup>7</sup>

The Cotonou Agreement reiterates the purposes of the previous ACP-EU partnerships, but also addresses them in a more direct and broader way. For instance, its main aims, which have been made clear since the Preamble, concern the reduction and eradication of poverty throughout sustainable development and the contribution to a progressive inclusion of the ACP Group of countries into the world economy. The Parties’ commitment is likewise reasserted in the first lines of Article 1 of the Agreement that reads “[...] the Partnership shall be centred on the objective of reducing and eventually eradicating poverty consistent with the objectives of sustainable development and the gradual integration of the ACP countries into the world economy”.

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<sup>4</sup> ECDPM, *Cotonou Infokit - The Cotonou Agreement at a glance*, Maastricht: ECDPM, 2001, p. 1.

<sup>5</sup> Poul Nielson, Speech delivered at the ACP-EC Partnership Agreement Signing Ceremony in Cotonou, 23 June 2000, reported in European Commission Press Release Database, “Speech by Mr Poul Nielson”, <[http://europa.eu/rapid/press-release\\_SPEECH-00-241\\_en.htm](http://europa.eu/rapid/press-release_SPEECH-00-241_en.htm)>.

<sup>6</sup> ECDPM, *Cotonou Infokit - The Cotonou Agreement at a glance*, Maastricht: ECDPM, 2001, p. 1.

<sup>7</sup> Jean Bossuyt, Niels Keijzer, Alfonso Medinilla and Marc De Tollenaere, *The future of ACP-EU relations: A political economy analysis*, Maastricht: ECDPM, January 2016, p. 2.

The pledge to fight poverty has always been one of the dominant features in the processes of international development and cooperation, and a cornerstone in the EU foreign policy agenda, therefore, it is not surprising that it is also at the heart of the existing Agreement between the European Union and the ACP Group of states. However, in this specific case, the eradication of poverty is not only one of the main objectives of the Partnership, as in the previous development agreements, but, innovatively, it represents the performance indicator, the core of the Agreement, essential for any other common future achievement shared by the Parties. Another distinctive feature of the Cotonou Agreement on this point can be found in its holistic approach to the concept of poverty. Actually, poverty is not defined only in its narrow economic sense (e.g. in terms of per capita incomes or depending on the country's Gross National Product); rather, the problem is tackled in an integrated way which takes into account, at the same time, the political, economic, social, cultural and environmental aspects of the development process.<sup>8</sup>

During the process for achieving their objectives, the actions of the Parties shall be guided by some fundamental principles, which are addressed in Article 2 of the Cotonou Agreement. The states taking part in the Agreement have agreed in the importance of four inspiring principles:

- Firstly, “the equality of partners and ownership of development strategies”, which underlines the full sovereignty the states belonging to the ACP Group preserve. They are independent in determining which “development principles, strategies and models of their economies and societies”<sup>9</sup> are most useful and most suitable for the achievement of the Partnership's objectives. Article 4 of the Agreement, too, reaffirms this principle. The role of the European Community before and of the EU now, is not one of the dictator of the rules, on the contrary, its duty is to support existing national development strategies and to work together with existing institutions and capacities of the ACP Group of states. In order to put this into effect, it has been necessary to change the way these developing countries had been financed until then, shifting from the common funding of “stand-alone” projects and programmes, towards the support of national budgets.<sup>10</sup>

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<sup>8</sup> ECDPM, *The Cotonou Agreement: A User's Guide for Non-State Actors*, Brussels: ACP Secretariat, 2003, p. 13.

<sup>9</sup> Cotonou Agreement, Part 1 “General provisions”, Title I “Objectives, principles and actors”, Chapter 2 “The actors of the Partnership”, Article 4 “General approach”.

<sup>10</sup> ECDPM, *The Cotonou Agreement: A User's Guide for Non-State Actors*, Brussels: ACP Secretariat, 2003, p. 13.

- Secondly, in Article 2 of the Agreement, the relevance of participation is highlighted. This results in the inclusion of ACP parliaments, local authorities and other different kinds of actors in the Partnership, comprising civil society organisations, economic and social partners, and private sector. The openness of the Partnership to a great variety of actors, reiterated also in Article 6, is another tangible evidence of the comprehensive approach with which the Parties want to tackle the development challenge.
- The third fundamental principle enlisted in the second article of the Agreement concerns the “pivotal role of dialogue and the fulfilment of mutual obligations”. Indeed, the Cotonou Agreement does not want to be considered only “a pot of money” for the Parties,<sup>11</sup> but it offers the occasion for the EU and the ACP Group to pursue their commitment to mutual obligations, such as the respect for human rights, the rule of law, democratic principles and good governance.<sup>12</sup> These are monitored and improved through reciprocal dialogue.
- Finally, the fourth principle to which the Agreement refers to takes into account the significance of differentiation and regionalisation. The ACP states, the recipients of this Partnership, shall be considered not only as a unitary group, but also in accordance to the differences and peculiar characteristics of each of them. Consisting of a great number of states, the ACP Group includes a great variety of countries with different levels of development, specific needs and performances, and, as a consequence, the cooperation agreements and the development strategies to adopt shall be adjusted considering the specificities of each case. In particular, Article 2 stresses that a special treatment shall be reserved to the least developed countries (LDCs), as well as that vulnerable landlocked or island states shall be taken into account.

Besides the core objectives guiding the Cotonou Agreement (the eradication of poverty and the promotion of sustainable development) and the four fundamental principles it entails, another essential characteristic of the Agreement has to be presented in order to fully understand the existing Partnership between the EU and the ACP Group of states: its tripartite structure. Actually, the Cotonou Agreement can be described as a house resting on three pillars closely interrelated between them:<sup>13</sup> first, development cooperation, in the

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<sup>11</sup> ECDPM, *Cotonou Infokit - The Cotonou Agreement at a glance*, Maastricht: ECDPM, 2001, p. 1.

<sup>12</sup> Cotonou Agreement, Part 1 “General provisions”, Title II “The political dimension”, Article 8 “Political dialogue”.

<sup>13</sup> Sylvia Hangen-Riad, *Finding your way through the Cotonou Agreement*, Regensburg: Friedrich-Ebert-Stiftung, August 2004, p. 4.

form of technical and financial aid to support jointly approved development projects; then, trade, the strongest pillar and the “engine of sustainable development”<sup>14</sup> based on the conclusion of Economic Partnership Agreements (EPAs) between the EU and the ACP Group of states; and lastly, the political dimension, which consists largely in the fostering of political dialogue and aims at establishing communication channels that shall be left open at all times to discuss a wide range of themes (e.g. human rights, fundamental freedoms and good governance). These three interlocked strands are interconnected and essential to one another: should any of them be removed or be lacking, the whole structure is likely to suffer and, finally, to fall down.<sup>15</sup> As a matter of fact, the provision of big sums of money to cooperation and aid programmes in poor countries can be useful only in the short term, providing just a temporary solution, not a long-lasting one.<sup>16</sup> Similarly, renewed domestic policies are necessary too, if the alleviation of poverty wants to be achieved, but they need financial support to be implemented. Trade policies are then complementary to aid projects, in order to grant the durability of the success. Hence, all three dimensions prove to be equally necessary if the Parties want to reach their final goal of poverty eradication.

Overall, the Cotonou Agreement presents a quite complex structure which consists of 100 Articles divided into six Parts each concerning a specific theme (general provisions, institutional provisions, cooperation strategies, development finance cooperation, general provisions for the Least Developed, Landlocked and Island ACP States (LDLICS), and final provisions). Moreover, the basic text is further supplemented by other 91 pages comprising six Annexes, mainly related to financial issues, trade, political dialogue and the identification of LDLICS; three Protocols on the operating expenditure of the joint institutions, on privileges and immunities and on South Africa; and fifty-three Declarations, be they joint declarations or solely EU or ACP declarations.<sup>17</sup>

It is thus quite evident that the Cotonou Agreement is an ambitious and articulated partnership, bringing together more than a hundred countries, with different levels of

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<sup>14</sup> Sylvia Hangen-Riad, *Finding your way through the Cotonou Agreement*, Regensburg: Friedrich-Ebert-Stiftung, August 2004, p. 8.

<sup>15</sup> ECDPM, *The Cotonou Agreement: A User's Guide for Non-State Actors*, Brussels: ACP Secretariat, 2003, p. 14.

<sup>16</sup> *Ibid*, p. 15.

<sup>17</sup> Commonwealth Secretariat - Economic Affairs Division, *The Cotonou Agreement: A User's Guide*, London: Commonwealth Secretariat, December 2004, p. xv.

development and dissimilar internal policies, in an integrated and comprehensive relationship of development, trade and political dialogue.

Due to its complexity and in order to give a more complete picture of the reasons that encouraged the stipulation of the Agreement, as well as to explain how its intricate mechanism works in reality, a deeper analysis of the structure of the Cotonou Agreement will be presented in the next sections of the research, which deal with the three pillars of the Agreement, the actors of the Partnership and the joint ACP-EU institutions .

## 1.1. THE THREE PILLARS: DEVELOPMENT COOPERATION, TRADE AND THE POLITICAL DIMENSION

In order to succeed in the task of reducing and eventually eradicating poverty, as it is stated in the Cotonou Agreement, the Parties have decided to concentrate their resources on three main fields, which are also the three cornerstones of their Partnership:

- development cooperation,
- trade,
- political dimension.

These three sectors work in a complementary way to promote the development of the ACP Group of states and its involvement in the global economy. Because of the central role they play in the Cotonou Agreement and in the achievement of its objectives, each of the three pillars will be analysed in more detail in the paragraphs that follow.

### 1.1.1. FIRST PILLAR: DEVELOPMENT COOPERATION

The first pillar of the Cotonou Agreement is development cooperation, which consists in the provision of support to the ACP countries that signed the Cotonou Agreement in the form of financial and technical assistance to the projects jointly agreed by the Parties.<sup>18</sup> These projects are implemented both at a regional and at a national level.

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<sup>18</sup> ECDPM, *The Cotonou Agreement: A User's Guide for Non-State Actors*, Brussels: ACP Secretariat, 2003, p. 15.

The Cotonou Agreement offers a general framework of how development cooperation has to be conducted. Part 3 of the Agreement, entitled “Cooperation strategies”, sets out the objectives cooperation strategies shall pursue, which focus mainly on poverty reduction, in compliance to the leading aim of the overall document. Specifically, Article 19 emphasizes that the commitment of the cooperation framework and its orientations “shall promote local ownership of economic and social reforms and the integration of the private sector and civil society actors into the development process” and it shall be tailored “to the individual circumstances of each ACP country”. Cooperation strategies shall, therefore, foster the participation of the private sector and of the civil society, and facilitate local ownership, without having disregard to the specific needs and characteristics of each country of the ACP Group.

The guide lines provided by Cotonou Agreement in the field of development cooperation want to be in line with its holistic approach. Accordingly, they cover a wide range of integrated areas, from economic development (e.g. increasing employment and improving access to productive economic activities), to social development (e.g. ensuring a wide and equitable share of the fruits of growth and promoting gender equality), to regional cooperation and integration.<sup>19</sup> Particular relevance is then given to the so called thematic or cross-cutting themes: Article 20 of the Agreement stresses the importance of the incorporation and accountability of fundamental matters into cooperation strategies, be they “human rights, gender issues, democracy, environmental sustainability, climate change, communicable and non-communicable diseases, institutional development and capacity building”<sup>20</sup>.

Supporting the development projects and programmes implemented by the Parties to pursue their objectives requires a great amount of resources. These are provided through a special monetary fund, the so called “European Development Fund” (EDF), regulated by the Financial Protocol, attached to the Agreement under Annex I. The European Development Fund was created in 1957 through Articles 131 and 136 of the Treaty of Rome, and it was launched in 1959. It is meant to be a specific funding mechanism exclusively for the ACP Group of states and for the Overseas Countries and Territories

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<sup>19</sup> Sylvia Hangen-Riad, *Finding your way through the Cotonou Agreement*, Regensburg: Friedrich-Ebert-Stiftung, August 2004, p. 7.

<sup>20</sup> Cotonou Agreement, Part 3 “Cooperation strategies”, Title I “Development strategies”, Chapter 1 “General framework”, Article 20(2) “The approach”.

(OCTs).<sup>21</sup> Consequently, money allocated to the ACP countries are not collected from the EU general budget, as it usually happens in the case of financing provided by other cooperation agreements between the EU and a developing region, but from a special fund established for the ACP Group and the OCTs only.

The European Development Fund operates on the basis of multi-annuity,<sup>22</sup> which means that a new EDF is negotiated approximately every five years, when the EU Member States meet within the Council and determine the overall amount allocated to the EDF, as well as the money each country have to contribute. Each EDF is governed by a dedicated Financial Regulation which requires the preparation of ad hoc financial statements. Since its establishment, the EDF has been refilled 11 times.

Currently, the 11<sup>th</sup> EDF is in place. It was created by an intergovernmental agreement signed in June 2013 and was adopted by the Parties on 2 March 2015. It is the last revision to the EDF before the Cotonou Agreement expires in 2020, and agrees in the delivery of an amount of € 30.5 billion for the period 2014-2020,<sup>23</sup> of which:

- € 29,089 million to the ACP countries (of which € 27,955 million managed by the EC),
- € 346.5 million to the OCTs,
- € 1,052.5 million to the Commission to finance the costs arising from the programming and the implementation of the 11<sup>th</sup> EDF.<sup>24</sup>

The bulk of the resources allocated under the 11<sup>th</sup> EDF contributes to finance ACP national and regional programmes (to which some € 24.4 billion are assigned); a lower amount of money is dedicated to the financing of intra-ACP and intra-regional cooperation (about € 3.6 billion); and the remaining € 1.1 billion is allocated to the EIB Investment Facility.<sup>25</sup>

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<sup>21</sup> European Commission, “Funding instruments & programming - European Development Fund (EDF)”, <[http://ec.europa.eu/europeaid/funding/funding-instruments-programming/funding-instruments/european-development-fund\\_en](http://ec.europa.eu/europeaid/funding/funding-instruments-programming/funding-instruments/european-development-fund_en)>.

<sup>22</sup> European Commission, *Annual accounts of the European Development Fund 2015*, Luxembourg: EU Publications Office, 15 July 2016, p. 6.

<sup>23</sup> Council of the European Union, *Internal Agreement between the Representatives of the Governments of the Member States of the European Union, meeting within the Council, on the financing of European Union aid under the multiannual financial framework for the period 2014 to 2020, in accordance with the ACP-EU Partnership Agreement, and on the allocation of financial assistance for the Overseas Countries and Territories to which Part Four of the Treaty on the Functioning of the European Union applies*, Luxembourg: EU Publications Office, 23 and 26 June 2013.

<sup>24</sup> European Commission, *Annual accounts of the European Development Fund 2015*, Luxembourg: EU Publications Office, 15 July 2016, p. 70.

<sup>25</sup> Alisa Herrero, Anna Knoll, Cecilia Gregersen and Willy Kokolo, *Implementing the Agenda for Change - An independent analysis of the 11th EDF national programming: key findings*, Maastricht: ECDPM, September 2015, p. 9.



Previously, from 1 March 2000 to 1 January 2008, the funds were delivered through the 9<sup>th</sup> EDF, accounting for a total of € 13,500 million, while in the period 1<sup>st</sup> January 2008- 1<sup>st</sup> January 2014 the 10<sup>th</sup> EDF was in force and € 22,682 million were available for development programmes.<sup>26</sup> In the case that the resources from previous EDFs remain unspent, they are transferred from the old EDF to the new one, making available that money too for new projects and commitments. Moreover, from the moment that it could takes months or years between the end of an EDF and the establishment of the next one, transitional measures, known as “Bridging Facility”, can be set up to cover those periods and grant the continuity of funding for cooperation projects.

The quantity of resources, millions of Euros, that the European Union has allocated to the ACP Group of countries through the EDF since its establishment has considerably increased, passing from € 569 million of the 1<sup>st</sup> EDF to € 30,500 million of the 11<sup>th</sup> EDF.<sup>27</sup> This is an indicator of the faith the EU place on this financial instrument and on the success it may achieve.<sup>28</sup>

Overall, the EDF budget is composed almost completely by European monetary contributions: the top three contributors to the 11<sup>th</sup> EDF are Germany, France and the UK, accounting for 53% of the resources given, while the top six contributors, namely Germany, France, the United Kingdom, Italy, Spain and the Netherlands, account for about 80% of the total funds.<sup>29</sup> For this reason, the EDF can be said to be constrained by a donor-recipient asymmetry that gives the EU member states greater decisional power for what these issues concerns.<sup>30</sup>

Two financial facilities have been set up under the Cotonou Agreement in order to channel the EDF resources to the ACP countries:

- the Grant Facility,
- the Investment Facility.

Two is a reduced number of financing instruments, if compared with those existing under the Lomé Conventions, and the reason of this choice can be found in the willingness of both Parties to simplify the processes and their management.

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<sup>26</sup> EU, “European Development Fund (EDF)”, <[http://ec.europa.eu/europeaid/funding/funding-instruments-programming/funding-instruments/european-development-fund\\_en](http://ec.europa.eu/europeaid/funding/funding-instruments-programming/funding-instruments/european-development-fund_en)>.

<sup>27</sup> European Commission, *ACP - EU relations after 2020: Issues for the EU in consultation phase 1 - Final Report*, Service Contract No. 2014/353799, Brussels: European Commission, July 2015, p. 2.

<sup>28</sup> For a more detailed overview of the amounts allocated through each EDF see Annex I - Table 1.

<sup>29</sup> For more detailed information see Annex I - Table 3.

<sup>30</sup> Jean Bossuyt, Niels Keijzer, Alfonso Medinilla and Marc De Tollenaere, *The future of ACP-EU relations: A political economy analysis*, Maastricht: ECDPM, January 2016, p. 51.

The first financial tool instituted by the Agreement, the “Grant Facility”, is managed by the European Commission. It provides for non-repayable funds, namely grants, to the ACP states. It is essentially employed to finance a wide range of long-term development operations such as sector policies, democracy programmes, macro-economic support, debt relief, regional cooperation and integration. Support programmes for non-state actors and joint institutions financing are funded through this facility, too. The second instrument the Cotonou Agreement supplies to share the resources with the ACP Group is the “Investment Facility”. It ensures loans to support private sector development activities, and finances principally, but not exclusively, private investment. The Investment Facility has been conceived as a renewable fund, meaning that loan repayments can be reinvested in other operations, and consequently it results as a financial independent and self-renewing facility.<sup>31</sup> Differently from the Grant Facility, the Investment Facility is not managed by the European Commission but from the European Investment Bank (EIB), and draws its resources partly precisely from the funds the EIB makes available for the ACP (and OTCs) countries, and partly from the money contributed by the EU Member States to the EDF.

Furthermore, the European Commission is allowed to establish Union Trust Funds under agreements concluded with other donors, aiming at financing external actions, mainly emergency, post-emergency and thematic actions. The first multi-donor EU Trust Fund has been the Békou Trust Fund, created under the EDF on 15 July 2014 by the EU (represented by DG DEVCO, DG ECHO and the EEAS) and three of its Member States (Germany, France and the Netherlands), in order to contribute to the stabilisation and reconstruction of the Central African Republic. Its maximum duration being of 60 months.<sup>32</sup>

The resources of the EDF are allocated to each country following a set of objective criteria and indicators delineated by the Cotonou Agreement in Annex IV “Implementation and management procedures” and, in particular, in Article 3. Accordingly, needs are assessed, for example, on the basis of “criteria pertaining to per capita income, population size, social indicators and level of indebtedness”, while performance are determined by “progress in implementing institutional reforms, country performance in the use of resources, effective implementation of current operations, poverty alleviation or reduction, sustainable development measures and macroeconomic and sectoral policy performance”.

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<sup>31</sup> European Commission, *Annual accounts of the European Development Fund 2015*, Luxembourg: EU Publications Office, 15 July 2016, p. 5.

<sup>32</sup> *Ibid*, p. 7.

In this way, each country receives the amount of money corresponding to its real needs and performances.

The same Annex previously mentioned defines also the mechanism through which decisions concerning how the money will be spent are taken: the programming process. The programming process consists on a series of joint consultations between the EU and an individual ACP Government or regional body, during which the priority sectors of support are determined, the draft of the Country Support Strategy (CSS) is prepared and the National Indicative Programme (NIP) annexed to the CSS is drawn up.<sup>33</sup> These two last documents, the CSS and the NIP, are fundamental for the ACP actors willing to be involved in cooperation, from the moment that they contain all information about the development cooperation sector of a specific ACP country, such as the money provided up to that time, the programmes ran in priority sectors, the schedules with the phases of projects implementation, and so on. Regular annual, mid-term and end-of-term reviews of the functioning and application of the CSS and the NIP are undertaken by the Delegations of the European Commission and by the National Authorizing Officers.<sup>34</sup>

In summary, development cooperation is performed in the form of technical and financial support to cooperation projects thanks to the establishment of the Grant Facility and the Investment Facility, that allow the redistribution of EDF resources to the ACP countries following specific parameters and mechanisms defined by the Cotonou Agreement.

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<sup>33</sup> Sylvia Hangen-Riad, *Finding your way through the Cotonou Agreement*, Regensburg: Friedrich-Ebert-Stiftung, August 2004, p. 8.

<sup>34</sup> Cotonou Agreement, Annex IV “Implementation and management procedures”, Chapter 1 “Programming (national)”, Article 5(1) “Review process”.  
A deeper explanation of the CSS, the NIP and of the NAO is proposed in Box 1 and Box 2.

### **Box 1- The CSS and the NIP.<sup>35</sup>**

#### The CSS and the NIP

The Country Support Strategy (CSS) is prepared by the EU and the concerned ACP states with the contribution of a wide range of actors involved in the development process. It is the instrument employed to define the framework within which EU assistance to a single ACP country is provided and, thus, it prioritises activities and cooperation programmes. The CSS includes: an analysis of the economic, social, political context of the concerned country; an outline of the medium-term development strategy and the priorities of that country, as well as of the plans and actions of other donors present in the territory; the specific contribution the EU can make; and the targeting of appropriate support mechanisms to implement the above strategies. A National Indicative Programme (NIP) is attached to the CSS. At regional level, the Regional Support Strategy exists.

The National Indicative Programme (NIP) consists of a work plan, defining on which sectors the support to one country shall focus. It identifies what operations are needed, a timetable for their implementation and a schedule for the provision of funds. Since there is a Regional Support Strategy, a Regional Indicative Programme annexed to it exists too.

### **Box 2- The NAO.<sup>36</sup>**

#### The NAO

The system of National Authorising Officers (NAOs) was put in place under the Lomé Convention in accordance with the principle of co-management of the EDF. In the Cotonou Agreement, its position is defined in Article 35, Chapter 6 “Fund-Resources Management and Executing Agencies” of Annex IV “Implementation and Management Procedures”. In conformity with Article 35, a National Authorising Officer shall be appointed by the Government of each ACP state in order to represent its country in all financial operations conducted within the financial framework of development cooperation under the Cotonou Agreement, and with the EDF resources managed by the EIB and the EC. The NAO generally works under the surveillance of the Ministry of Finance and it is responsible, above all, for “the coordination, programming, regular monitoring and annual, mid-term and end-of-term reviews” of cooperation implementation, in consultation with other relevant actors of the Partnership, as well as for the “preparation, submission and appraisal of programmes and projects”.

<sup>35</sup> Sylvia Hangen-Riad, *Finding your way through the Cotonou Agreement*, Regensburg: Friedrich-Ebert-Stiftung, August 2004, p. 19.

<sup>36</sup> Cameroon-European Union corporation, “EDF National Authorizing Officer”, <[http://www.caonfed.org/en/index.php?file=Page&name=role\\_on](http://www.caonfed.org/en/index.php?file=Page&name=role_on)>.

### 1.1.2. SECOND PILLAR: TRADE

Trade is the second pillar on which the Cotonou Agreement is based, as well as the strongest and the most important of the three, given that it is considered the driving force behind sustainable development.

Since 2000, a great change has occurred in the way trade relations between the EU and the ACP Group of countries were established. Indeed, in the twenty-five-year period that preceded the Cotonou Agreement, economic relations between the two Parties were characterized by non-reciprocal trade preferences, meaning that almost all products proceeding from the ACP states were granted duty free access to the EU market.<sup>37</sup> In Part 3 Title II “Economic and trade cooperation” of the Cotonou Agreement, instead, the old non-reciprocal preference mechanism is replaced with a new reciprocal trade regime, negotiated in the form of Economic Partnership Agreements (EPAs). Consequently, any kind of preferential agreement in place between the Parties has been eliminated. Basically, EPAs establish Free Trade Areas (FTAs) based on the regional integration of the ACP countries, in conformity with the requirements of the World Trade Organization (WTO).

This shift leads in particular to two consequences: the first one is that, in order to maintain or improve the EU market access, the ACP Group of states have to gradually remove the barriers to market access and open it up over a period of up to 12 years, with the result of an increase in competition on local markets due to the higher competition on price exports. A second implication for the ACP countries involved in the economic Partnership is related to EPAs compatibility with WTO requirements: while in the old non-reciprocal trade market, economic cooperation affected only trade in goods and agricultural products, the new EPAs, in accordance to WTO conditions, extend economic cooperation also to trade in services and other trade related matters, be they intellectual property rights, investments, government procurement, or product standards. Additionally, WTO compatibility implies the observance of time limits, such as the conclusion of import duties elimination within 10 or 12 years, making the Economic Partnership Agreements even more complex and harder to follow.<sup>38</sup>

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<sup>37</sup> Sylvia Hangen-Riad, *Finding your way through the Cotonou Agreement*, Regensburg: Friedrich-Ebert-Stiftung, August 2004, p. 9.

<sup>38</sup> *Ibid*, p. 8-9.

EPAs, as separated trading arrangements, can be negotiated either between the EU and the ACP states individually or, as the EU encourages to do, between the EU and ACP regional blocks of countries.

On behalf of the European Union, the process of negotiation is entrusted to the European Commission, and, in particular, to the Directorate-General for Trade (DG TRADE) in collaboration with the Directorate-General for Development (DG DEVCO) and other services of the European Commission. On the ACP side, the leadership for trade negotiation at the all-ACP level is assumed by the ACP Council of Ministers, with the recommendations of a Ministerial Trade Committee, as established by Article 38 of the Cotonou Agreement, while at a regional level, the body responsible for dealing with EPAs negotiations is the Committee of ACP ambassadors.<sup>39</sup> Furthermore, four of the regional ACP groups, West Africa, the East African Community, the South African Development Community and the Caribbean, which are also the ACP groups signatory of a regional EPA, dispose, each of them, of an EPA joint institution with the EU. EPA joint institutions have been created in order to better manage the implementation of regional Economic Partnership Agreements and to foster cooperation on trade issues. Their different organisational structure reflects the distinct preferences, scope and size of each regional group. For instance, the CARIFORUM-EU EPA institution comprises: a Joint Council, a Trade and Development Committee, a Consultative Committee and a Special Committee on Customs Cooperation and Trade Facilitation; while the EAC-EU EPA institution counts only with a Joint Council and a Special Committee on Customs Cooperation.<sup>40</sup>

In accordance with the Cotonou Agreement, EPAs should have entered into force starting from 2 January 2008,<sup>41</sup> however this was not true for all ACP countries and regional groupings, since the economics agreements were signed and concluded at different timings, while some processes are still ongoing. For instance, in 2015 the Economic Partnership Agreements covered 49 of the 79 ACP countries.<sup>42</sup>

Hereafter, a brief overview of the actual status of EPAs, on the basis of their regional division, is presented.

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<sup>39</sup> ECDPM, *The Cotonou Agreement: A User's Guide for Non-State Actors*, Brussels: ACP Secretariat, 2003, p. 18.

<sup>40</sup> Jean Bossuyt, Niels Keijzer, Alfonso Medinilla and Marc De Tollenaere, *The future of ACP-EU relations: A political economy analysis*, Maastricht: ECDPM, January 2016, p. 83.

<sup>41</sup> Cotonou Agreement, Title II "Economic and Trade Cooperation", Chapter 2 "New Trading Arrangements", Article 37, 23 June 2000.

<sup>42</sup> Lotte Van Buuren, Rachel Maclean, *Economic Partnership Agreements*, London: CIVITAS Institute for the Study of Civil Society, Last update in September 2015.

**Table 1- EPAs status at September 2016.**<sup>43</sup>

<b>REGIONAL GROUP</b>	<b>EPA STATUS</b>
<b>WEST AFRICA (ECOWAS)</b>	Regional EPA (EPA-ECOWAS) negotiations were closed on 6 February 2014, on 10 July 2014 the EPA was endorsed for signature by ECOWAS Heads of State but the signature process is currently ongoing. Individually, two West African countries signed an EPA with the EU: Côte d’Ivoire, for which it entered into provisional application on 3 September 2016, and Ghana, which ratified it on 3 August 2016.
<b>CENTRAL AFRICA</b>	Contacts on the issue of the establishment of a regional EPA are ongoing. As individual countries, only Cameroon signed and ratified the EPA that entered into provisional application on 4 August 2014.
<b>EASTERN AND SOUTHERN AFRICA (ESA)</b>	An EPA (EPA-ESA) has been provisionally applied since 14 May 2012 between the EU and Mauritius, Seychelles, Zimbabwe and Madagascar.
<b>EAST AFRICAN COMMUNITY (EAC)</b>	Negotiation for a regional EPA (EPA-EAC) were successfully concluded on 16 October 2014 but signature and ratification processes with EAC countries are still ongoing.

<sup>43</sup> European Commission, “Overview of Economic Partnership Agreements”, <[http://trade.ec.europa.eu/doclib/docs/2009/september/tradoc\\_144912.pdf](http://trade.ec.europa.eu/doclib/docs/2009/september/tradoc_144912.pdf)>.

<p><b>SOUTH AFRICAN DEVELOPMENT COMMUNITY (SADC)</b></p>	<p>After ten years of negotiations, the agreement for a regional EPA (EPA-SADC) was reached on 15 July 2014. It was signed on 10 June 2016 and finally entered into force on 10 October 2016.<sup>44</sup></p>
<p><b>CARIBBEAN</b></p>	<p>A regional EPA (CARIFORUM-EPA) was signed in October 2008 and it was revised in November 2014.</p>
<p><b>PACIFIC</b></p>	<p>An EPA has been established only between the EU and two pacific states: Papua New Guinea, who ratified it on 25 May 2011, and Fiji, who applied to it in July 2014.</p>

Even if EPA trade negotiations constitute the most important initiative in the economic field of action among the two partnering groups, the ACP Group of countries can also benefit from another European economic instrument. As a matter of fact, probably foreseeing the difficulties and lengthy in concluding the EPAs, the EU decided to adopt the Market Access Regulation (MAR). Accordingly, the MAR was established as to cover the vacuum resulting from the expiring of the old non-reciprocal trade preference mechanism and the extended phase of conclusion and revision of EPAs. In this way, products originating in the ACP countries whose EPA ratification is still pending and which are not included in other European schemes of preferences such as the Everything-but-Arms regime, are granted free access to the EU market. These countries comprehended states belonging to the South African Development Community, West Africa and East African Community regions, plus Cameroon. The MAR was to remain in place until 2014 but the period was then extended until 2016. It expired on 1 October 2016.<sup>45</sup>

<sup>44</sup> European Commission, “Economic Partnership Agreement with southern African countries enters into effect”, <<http://trade.ec.europa.eu/doclib/press/index.cfm?id=1554>>.

<sup>45</sup> European Commission, Trade Export Helpdesk, “Rules of Origin MAR”, <[http://exporthelp.europa.eu/thdapp/display.htm?page=cd/cd\\_RulesOfOriginMAR.html&docType=main&languageId=EN](http://exporthelp.europa.eu/thdapp/display.htm?page=cd/cd_RulesOfOriginMAR.html&docType=main&languageId=EN)>.



Furthermore, some of the ACP states comply with the requirements needed to be included in other EU preferential trade regimes, namely the Generalised Scheme of Preferences (GSP), the GSP+, and the Everything-but-Arms (EBA) initiative. In particular, the EBA was launched in March 2001 for the least developed countries (LCDs) which can thus benefit from duty-free access to the EU market to all their products, except arms and ammunitions.<sup>46</sup> This helped the LCDs not feeling to be in a position to negotiate EPAs to continue exporting to the EU the great variety of agricultural products their territories offer, without having strong repercussion on their economy.

Trade represents the most important pillar of the Cotonou Agreement, since it is the main development means for the ACP states, but it is also a challenging issue: despite disposing of a powerful tool that grant trade preferential measures to the contracting Parties, the EPAs, the EU and the ACP Group have experienced some difficulties in the negotiation and implementation of their economic arrangements, as it will be explained in part 3.1.1.

### 1.1.3. THIRD PILLAR: THE POLITICAL DIMENSION

Political dimension is the third pillar of the structure of the Cotonou Agreement, as well as a central element in the ACP-EU Partnership. The Agreement deals with the political dimension determining its most significant aspects: the political dialogue the Parties have to be engaged in, the political principles that have to be respected and defended, and the sanctions or specific measures to be applied in the eventuality the Parties do not fulfil their political commitment.

Part 1 Title II “The political dimension” of the Cotonou Agreement tackles the issue of political dialogue underling, in Article 8, that the Parties shall “regularly engage in a comprehensive, balanced and deep political dialogue leading to commitments on both sides”. The idea at the basis of the Parties’ commitment to establish a political dialogue is that dialogue is not only to be used when major problems arise in their Partnership, but it has to be considered as an always open channel, to be employed at all times. Article 8 equally asserts the objectives of political dialogue, namely the exchange of information, the fostering of mutual understanding and the establishment of agreed priorities and shared ideas. As a matter of fact, political dialogue is one of the tools designed by the Cotonou

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<sup>46</sup> ECDPM, *The Cotonou Agreement: A User’s Guide for Non-State Actors*, Brussels: ACP Secretariat, 2003, p. 17.

Agreement to promote peace, security and a stable and democratic political environment, and to achieve, in the end, the main objective of the Agreement: the reduction and eventually the eradication of poverty.

The political dimension is organised around a wide range of issues. Indeed, Article 9 of the Agreement recognizes as essential elements of the Partnership, to be addressed in the dialogue between the Parties, “human rights, democratic principles and the rule of law, and fundamental element regarding good governance”. Hence, with the Agreement, the EU and the ACP Group have committed to promote and protect all fundamental freedoms and human rights, and, in accordance with the holistic approach of the entire Agreement, all kinds of human rights are mentioned in Article 9, be they economic, social and cultural, civil and political. It is clear that the focal point of this Partnership does lay in the tool of cooperation in order to eradicate poverty and promote sustainable development, but the main protagonist and beneficiary of development must be the human person, the individual, independently of its gender. The equality of men and women is indeed reaffirmed in this article.

Besides the great relevance given to the fundamental elements of good governance, democracy and human rights, other political principles are referred to by the Cotonou Agreement. The contracting Parties have also engaged in the pursuing of peace building policies, conflict prevention and resolution, with particular emphasis to be put on the targeting of the root causes of conflicts and on capacity building.<sup>47</sup> Moreover, Articles 11A and 11B include among the essential principles of the political dimension the fight against terrorism and the cooperation in countering the proliferation of weapons of mass destruction. Both Parties have firmly condemned all acts of terrorism and agreed to exchange information on terrorist groups and their support networks and to discuss on the possible means and methods to counter terrorist acts through sharing experiences and trainings or technical assistance. At the same time, the EU and the ACP Group of countries have considered the proliferation of weapons of mass destruction and their means of delivery “one of the most serious threat to international stability and security”<sup>48</sup>. With the purpose of contributing to non-proliferation, the Parties have agreed on the implementation of all relevant international instruments concerning the issue, and on the establishment of effective systems of control. Finally, the facilitation of agreement between the EU and the

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<sup>47</sup> ECDPM, *The Cotonou Agreement: A User's Guide for Non-State Actors*, Brussels: ACP Secretariat, 2003, p. 19.

<sup>48</sup> Cotonou Agreement, Title II “The political dimension”, Article 11B.

ACP Group of states on their cooperation policies, the discussion of the many aspects of migration and of the impacts of EU policies on ACP interests are considered as part of the political principles, too. A regular political dialogue is the tool identified by the Parties to accompany and consolidating the commitment of the Parties and their cooperation in all these areas.

Overall, the Cotonou Agreement intends to be flexible and the dialogue provisions focus mainly on positive conditionality and preventive measures.<sup>49</sup> Notwithstanding this, when political dialogue fails in its purpose of being a valid diplomatic instrument, and political principles are not respected, negative conditionality, as for example sanctions, are foreseen by the Agreement in Article 96 concerning “essential elements: consultation procedure and appropriate measures as regard human rights, democratic principles and the rule of law”. Article 96 englobes the willingness of the Parties to “exhaust all possible options for dialogue under Article 8” before resorting to consultation, as stated in paragraph 2(a). If political dialogue is no more possible and a Party retains that the other Party has violated or has failed to perform the obligations expressed in Article 9, namely the respect for human rights, democratic principles and the rule of law, it shall accurately notify the other Party and the Council of Ministers, supplying all relevant information and possible solutions to the problem. Within 30 days, consultations shall then begin and can continue for a period up to 120 days. In the event that the consultations too fail to find a solution acceptable to both Parties, or, in case of special urgency, Article 96 dictates that appropriate measure may be taken. The “appropriate measures” it refers to are to be “in accordance with international law and proportional to the violation” and they are usually linked to a suspension mechanism. This means that when a severe violation takes place, a partial or even total suspension of aid is adopted. As soon as the reasons for the application of the special measures are no longer in place, the measures shall be revoked.

The partners taking part in the political dialogue are mainly the central government agencies, but non-state actors may be involved, too. In particular, the Cotonou Agreement underlines the importance of civil society’s participation in this dialogue for the positive outcome of the peace-building processes. The political dialogue may thus occur both in a formal way, inside the institutional framework, and outside it in an informal way.

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<sup>49</sup> Jean Bossuyt, Niels Keijzer, Alfonso Medinilla and Marc De Tollenaere, *The future of ACP-EU relations: A political economy analysis*, ECDPM: Maastricht, January 2016, p. 60.

Moreover, dialogue is constructed on the basis of the definite needs and issues of the state in question at that point in time. This means that political dialogue, too, respects the general characteristic of the Cotonou Agreement, adopting a specific country by country approach. In order to observe this principle, the ACP-EU dialogue is conducted at different levels: from a geographical point of view, it can take place at a pan-ACP level, at a regional level or at a national level; hierarchically it is possible to establish a dialogue at the level of government officials, of Ministers or even at that of civil society.<sup>50</sup>

Concretely, political cooperation materializes in activities related to the promotion of essential elements, the implementation of conflict prevention and resolution, support to political and institutional reform processes, and capacity building for both public or private actors and the civil society.

The political dimension is an essential part of the Cotonou Agreement, contributing to its uniqueness and completeness: without this pillar, the EU-ACP Partnership would have been predominantly financial and economic, based on the material interests of the Parties; however, thanks to the political principles enlisted in and the political dialogue provided by the Agreement, it results to be different from other types of development cooperation agreements negotiated until now.

## 1.2. THE ACTORS OF THE COTONOU AGREEMENT

The Agreement signed at Cotonou in June 2000 is the result of a long process of discussions and negotiations between two main protagonists, which have not been presented, yet:

- the African, Caribbean and Pacific Group of states on the one side,
- the European Community and its Member States on the other side (this last one is now known as the European Union).

The two Parties are not single-state actors, instead, they are unions consisting of a large number of countries that invested energies and worked together to create either the ACP Group or the EU. They have different histories, particular characteristics, and specific aims, which determine the role they play in the Cotonou Agreement.

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<sup>50</sup> Sylvia Hangen-Riad, *Finding your way through the Cotonou Agreement*, Regensburg: Friedrich-Ebert-Stiftung, August, 2004, p. 6.

Nevertheless, the governments of the countries signatory of the Agreement, gathered under the ACP Group or the European Union, are not the only actors involved in the Partnership, although they are the most influential one. As a matter of fact, the Cotonou Agreement strongly promotes the participation of economic and social partners, the civil society, and the private sector in the development cooperation process, in particular in the decision-making phase as well as in the implementation of the approved programmes.

In order to better comprehend the common objectives and the interests of the two contracting Parties of this Agreement, it is fundamental to understand the long stories of negotiations, treaties and relationships that are hidden behind their names, or at least, to retrace the most important steps that lead to their formation. Hence, the next sections will try to meet this need, presenting the EU and the ACP Group. A brief explanation of who non-state actors are and which function they perform in the Partnership, will be presented, too.

### 1.2.1. THE AFRICAN, CARIBBEAN AND PACIFIC GROUP OF STATES

**Image 1- Map of ACP countries**



Image source: <http://memim.com/african-caribbean-and-pacific-group-of-states.html>

## List of ACP Countries:

Angola - Antigua and Barbuda - Bahamas - Barbados - Belize - Benin - Botswana - Burkina Faso - Burundi - Cameroon - Cape Verde - Central African Republic - Chad - Comoros - Congo (Brazzaville) - Congo (Kinshasa) - Cook Islands - Cte d'Ivoire - Cuba - Djibouti - Dominica - Dominican Republic - Eritrea - Ethiopia - Fiji - Gabon - Gambia - Ghana - Grenada - Republic of Guinea - Guinea-Bissau - Equatorial Guinea - Guyana - Haiti - Jamaica - Kenya - Kiribati - Lesotho - Liberia - Madagascar - Malawi - Mali - Marshall Islands - Mauritania - Mauritius - Micronesia - Mozambique - Namibia - Nauru - Niger - Nigeria - Niue - Palau - Papua New Guinea - Rwanda - St. Kitts and Nevis - St. Lucia - St. Vincent and the Grenadines - Solomon Islands - Samoa - Sao Tome and Principe - Senegal - Seychelles - Sierra Leone - Somalia - South Africa - Sudan - Suriname - Swaziland - Tanzania - Timor Leste - Togo - Tonga - Trinidad and Tobago - Tuvalu - Uganda - Vanuatu - Zambia - Zimbabwe

The African, Caribbean and Pacific Group of States, known also for its acronym, the “ACP Group”, is the largest intergovernmental association of developing countries in the world having a permanent secretariat.<sup>51</sup> The Group was instituted and given legal personality with the Georgetown Agreement, signed by its participants in 1975 at Georgetown, the capital of the South American state of Guyana, and revised in 2003.

In conformity with Article 1 of the Georgetown Agreement, which defines the composition, organization and characteristics of the ACP Group, this is composed by the African, Caribbean and Pacific States being part of the same Georgetown Agreement, as well as by those countries of the ACP geographic area that are signatories of the Cotonou Agreement. Cuba represents the only exception in the ACP Group, being part of it but having not signed the Cotonou Agreement, yet.<sup>52</sup> In total, the Group comprises 79 states, of which the majority (48) pertaining to Sub Saharan Africa, 16 belonging to the Caribbean area and, last but not least, 15 being Pacific countries.<sup>53</sup> Over the years, the number of the ACP Member States has increased considerably: while in 1975, when it was founded, the ACP Group counted “only” with 46 states, nowadays it has expanded to 79 participants and the number is likely to grow even further, since other countries, such as South Sudan, have submitted their request of accession.<sup>54</sup>

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<sup>51</sup> ACP Ambassadorial Working Group, *Transforming the ACP Group into an Effective Global Player - Final Report of the Ambassadorial Working Group on the Future Perspectives of the African Caribbean and Pacific (ACP) Group of States*, Brussels: ACP Secretariat, 2 December 2014, p. 4.

<sup>52</sup> ECDPM, *Cotonou Infokit*, Maastricht: ECDPM, 2001, p. 1.

<sup>53</sup> ACP, <<http://www.acp.int/node/7>>.

<sup>54</sup> ACP Ambassadorial Working Group, *Transforming the ACP Group into an Effective Global Player - Final Report of the Ambassadorial Working Group on the Future Perspectives of the African Caribbean and Pacific (ACP) Group of States*, Brussels: ACP Secretariat, 2 December 2014, p. 4.

The ACP group of countries can be analysed in various ways, and its Member States can be classified depending on different criteria:

- *Geographically*. The Georgetown Agreement organises the ACP Group in accordance with the geographical areas its member states belong to and, in particular, in Part 4 of Article 1, it identifies six distinct regions of ownership: “Central Africa, East Africa, Southern Africa, West Africa, the Caribbean and the Pacific”.
- *Economically (World Bank Parameter)*. A further classification of the ACP countries can be made analysing their situation from an economic perspective, that is to say, considering the level of their Gross National Income per capita. Actually, even if all ACP Member States are classified as “developing countries”, different degrees of economic growth and wealth can be identified: according to the World Bank definitions, currently, 27 out of 79 ACP countries are “Low-Income” states (GNI per capita of \$ 1,025 or less in 2015), 22 are defined as “Lower-Middle Income” (GNI per capita between \$ 1,026 and \$ 4,035 in 2015), 21 as “Upper-Middle Income” (GNI per capita between \$ 4,036 and \$ 12,475 in 2015) and 7 as “High Income” economies (GNI per capita of \$ 12,476 or more in 2015).<sup>55</sup>
- *Economically (United Nation Parameter)*. Taking into account the United Nation (UN) categorization, which determines the development status by reference to a set of three criteria, namely the Gross National Income (GNI) per capita, the Human Asset Index (HAI), and the Economic Vulnerability Index (EVI),<sup>56</sup> it appears that 40 countries are classified as “Least Developing Countries” (LDCs), 37 are considered as “Small Island Developing States” while 15 are contemplated as “Land-locked Developing Countries”.<sup>57</sup>

The ACP Group of states was originally created with “the aim of coordinating cooperation between its members and the European Union”<sup>58</sup>. However, during the period of more than forty years that started with the Group foundation and goes ‘till today, it has extended its range of activities, covering many different fields, from trade and economics to politics and culture, as well as being engaged in a great variety of international fora such as the World Trade Organisation (WTO). Looking at the aims of the ACP Group in more detail,

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<sup>55</sup> The World Bank, “World Bank Country and Lending Groups”, <<https://datahelpdesk.worldbank.org/knowledgebase/articles/906519-world-bank-country-and-lending-groups>>.

<sup>56</sup> DESA - Development Policy and Analysis Division, “LDC Criteria”, <<http://unohrlls.org/about-lllcs/indicators-and-statistics/>>.

<sup>57</sup> UN-OHRLLS, “Landlocked Developing Countries Factsheet”, <<http://unohrlls.org/about-lllcs/indicators-and-statistics/>>.

<sup>58</sup> ACP, <<http://www.acp.int/node/7>>.

Article 2 of the Georgetown Agreement sets the goals the ACP states shall pursue. First of all, they have to guarantee the compliment of the objectives established in the Cotonou Agreement, in particular the eradication of poverty and the promotion of sustainable development through the structural transformation of the Member States' economies and their gradual integration into the world economy. The engagement of the ACP Group in an effective political dialogue with the EU, so as to strengthen their Partnership, is enlisted within the key objectives of the Georgetown Agreement, too. Other commitments that are then delineated in Article 2 concern mainly the relationship among the ACP states, and they consist in: the fostering and strengthening of unity and solidarity within the ACP Group through the promotion and reinforcement of the political dialogue among its Member States; the contribution to the development of closer relations among developing countries on subjects ranging from economics, politics and culture; the maintenance of peace and stability “as the precondition for improving the well-being of ACP peoples”<sup>59</sup>; and the enhancement of the understanding between ACP people. As a final goal, the ACP countries also commit themselves to establish contacts and relations with other states and group of states, apart from the EU and its members.

All the objectives above-mentioned and described in the Georgetown Agreement are in compliance with the three main levels on which the ACP Group operates:

- the European level, represented by its main partner, the EU;
- the Intra-ACP level, which develops among the Group Member States;
- a more general international level, consisting of various world actors, be they other countries with interests similar to those of the ACP Group, other international bodies, or, in more recent years, the “emerging economies” such as the BRICS (Brazil, Russia, India, China and South Africa, this last one being also an ACP member).<sup>60</sup>

In dealing with the organisation and structure of the ACP Group, the Georgetown Agreement provides for the establishment of a Secretariat, located in Brussels (Belgium), with a staff of 92 selected professionals, experts and general services coming from the ACP countries.<sup>61</sup> Thanks to the Headquarters Agreement it concluded with the Kingdom of Belgium, diplomatic immunity to its senior personnel as well as documentary and

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<sup>59</sup> Georgetown Agreement, Article 2.

<sup>60</sup> ACP Ambassadorial Working Group, *Transforming the ACP Group into an Effective Global Player - Final Report of the Ambassadorial Working Group on the Future Perspectives of the African Caribbean and Pacific (ACP) Group of States*, Brussels: ACP Secretariat, 2 December 2014, p. 4.

<sup>61</sup> Georgetown Agreement, Chapter II “Organs of the ACP Group”, Article 4.



communications immunity is guaranteed.<sup>62</sup> In the same way, the Headquarters Agreement recognises the Secretariat as tax-exempt. Being one of the most important institutions within the Group, the ACP Secretariat is charged with the accomplishment of administrative and management functions. In the framework of the ACP-EU Partnership, the ACP Secretariat has the duty of controlling the enactment of the Cotonou Agreement, as well as that of assisting the organs and the joint institutions created by that very Agreement. Within the ACP Group, the Secretariat has to closely work with the other ACP decision-making bodies instituted by Article 3 of the Georgetown Agreement, namely the Summit of ACP Head of State and Government, the Council of Ministers, the Committee of Ambassadors and the ACP Parliamentary Assembly, with the purpose of accomplishing the tasks they assign to it, and of monitoring and implementing the decisions they take.<sup>63</sup>

As stated above, in order to carry out its activities, the ACP Group counts on four major organs: the ACP Summit, the Council of Ministers, the Committee of Ambassadors and the Parliamentary Assembly. The ACP Summit and the Parliamentary Assembly were formally recognised only with the 2003 revision of the Cotonou Agreement, while the Parliamentary Assembly was first convened in 2005. A basic description of the composition of these ACP decision-making bodies and of their functions is presented in Table 3 below.

**Table 2 - Decision-making bodies of the ACP Group of States.<sup>64</sup>**

INSTITUTIONS	COMPONENTS	FREQUENCY OF MEETINGS	FUNCTIONS
<i>ACP Summit</i> <sup>65</sup>	Heads of State and Government of ACP Member States or their designated representatives.	Regularly, but not every year, on recommendation of its Bureau or of the Council of Ministers.	-Laying down the guidelines for the general policy of the ACP Group; -giving instructions to the Council of Ministers for policy implementation.

<sup>62</sup> Jean Bossuyt, Niels Keijzer, Alfonso Medinilla and Marc De Tollenaere, *The future of ACP-EU relations: A political economy analysis*, ECDPM: Maastricht, January 2016, p. 22.

<sup>63</sup> ACP, “Secretariat ACP”, <<http://www.acp.int/content/secretariat-acp>>.

<sup>64</sup> ACP, “Principal organs”, <<http://www.acp.int/node>>.

<sup>65</sup> Georgetown Agreement, Chapter II “Organs of the ACP Group”, Articles 7-9.

<b><i>Council of Ministers</i></b> <sup>66</sup>	A member of Government from each ACP state or a government-designated representative.	Usually once a year.	<ul style="list-style-type: none"> <li>-Implementing the guidelines laid down by the ACP Summit;</li> <li>-checking on the Member States' attendance to the guidelines.</li> <li>-appointing the members of the Bureau of the Council of Ministers, which shall co-ordinate the work of the Council.</li> </ul>
<b><i>Committee of Ambassadors</i></b> <sup>67</sup>	The Ambassadors or one representative for each ACP country	Normally once a month. Its sub-committees meet more frequently.	<ul style="list-style-type: none"> <li>-Assisting the Council of Ministers carrying out any mandate it is assigned;</li> <li>-monitoring the implementation of the Cotonou Agreement;</li> </ul>
<b><i>Parliamentary Assembly</i></b>	The parliamentarians of the 27 countries signatory of the Charter creating the ACP Consultative Assembly	Twice a year in plenary session. Its standing committees meet more frequently.	<ul style="list-style-type: none"> <li>-Facilitating the consultation and the exchange of ideas;</li> <li>-harmonising positions;</li> <li>-preparing in a better way the terms of reference and of negotiation.</li> </ul>

Article 4 designates, then, a specific figure to represent the ACP Secretariat, the Secretary-General, which is appointed by the Council of Ministers on the basis of merit, competence and integrity for a five-year term. At present, this role is performed by Dr. Patrick Ignatius Gomes of Guyana, elected in 2014 and in charge until 2019. The responsibilities of the Secretary-General go from the management of the staff, the programmes and projects of the Group, to the assurance that good quality technical and administrative support is

<sup>66</sup> Georgetown Agreement, Chapter II "Organs of the ACP Group", Articles 10-14.

<sup>67</sup> Georgetown Agreement, Chapter II "Organs of the ACP Group", Articles 18-22.

provided by the Secretariat to the ACP members and organs, to the coordination and supervision of the ACP Group's cooperation policy, as well as to the implementation of its international policy. Finally, the Secretary-General is also the Authorising Officer for the Budget.<sup>68</sup>

The ACP Secretariat can work thanks to a budget approved every year in the second annual session of the ACP Council of Ministers. The budget is supported mainly by the contributions of its Member States, calculated in accordance with each country's GNI average of the last three to six years and on the basis of three factors: per capita income, currency fluctuation and national debt level of each one of them. However, due to the long arrears the ACP states have in payments, their part of incomes is not always reliable. The other great contributor to the financing of the ACP Secretariat is the EU, which, through the EDF, provides for a "maximum of 50% of the secretariat's annual running costs"<sup>69</sup>. To give an example of the total amount of the budget the Secretariat disposes of, in 2015, it was of around € 15.4 million, of which € 7.9 million provided by the ACP Member States and more than € 6 million by the EU, via the European Development Found.<sup>70</sup>

In summary, the African, Caribbean and Pacific Group of states proves to be a large association of countries, well organized in its structure, whose members are determined in achieving their objectives of reducing poverty and improving relationships; and even if these countries are hold together by the shared principles of unity and solidarity, the main characteristics of the Group are diversity and heterogeneity, which can represent a challenge but also an opportunity for its Member States.

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<sup>68</sup> ACP, "Secretariat ACP", < <http://www.acp.int/content/secretariat-acp>>.

<sup>69</sup> Jean Bossuyt, Niels Keijzer, Alfonso Medinilla and Marc De Tollenaere, *The future of ACP-EU relations: A political economy analysis*, ECDPM: Maastricht, January 2016, p. 27.

<sup>70</sup> *Ibid*, p. 127-128.

## 1.2.2. THE EUROPEAN UNION

**Image 2- The European Union**



Image source: [http://ec.europa.eu/echo/files/civil\\_protection/vademecum/menu/2.html](http://ec.europa.eu/echo/files/civil_protection/vademecum/menu/2.html)

### **List of the European Union Member States:**

Austria – Belgium – Bulgaria – Croatia – Cyprus - Czech Republic – Denmark – Estonia – Finland – France – Germany – Greece – Hungary – Italy – Ireland – Latvia – Lithuania – Luxembourg – Malta - the Netherlands – Poland – Portugal – Romania – Spain – Slovakia – Slovenia - Sweden - the United Kingdom.

The other Party signatory of the Cotonou Agreement in the year 2000 was the European Union, symbolizing Europe and its Member States.

The European Union, as it showed up in June 2000 and as it is known also today, was the result of more than fifty years of treaties, discussions and agreements. Actually, its origins dates back to 9 May 1950 when the French foreign minister, Robert Schuman, issuing the Schuman Declaration, proposed the establishment of a European Coal and Steel Community, taking up an idea originally conceived by Jean Monnet and realizing the dream of many philosophers and visionaries of the nineteenth century, among which there

was, for example, Victor Hugo, which imagined a peaceful “United States of Europe”. In his project, Robert Schuman was supported by few statesmen, including Konrad Adenauer, Alcide de Gasperi and Winston Churchill.<sup>71</sup> The Schuman Plan finally became reality on 18 April 1951 when the Treaty of Paris was signed, hereby institutionalising the European Coal and Steel Community (ECSC), a common market in coal and steel established between the six founding states, namely Belgium, the Federal Republic of Germany, France, Italy, Luxembourg and the Netherlands.<sup>72</sup>

Two further important events followed, with the signature of the Treaties of Rome on 25 March 1957: the constitution of the European Atomic Energy Community (EURATOM) and the formation of the European Economic Community (EEC or Common Market), this last one providing for the creation of a wider common market between the signatories and covering an extensive range of goods and services.<sup>73</sup> The 1960s showed up to be a favourable period for European economic relations thanks to the abolition of customs duties between the six countries and to the affirmation of common policies, notably on the field of trade and on that of agriculture in order to protect EEC farmers from agricultural imports.

The European venture was so successful that three other countries decided to join and in 1973 the EEC was officially enlarged from six to nine members with the inclusion of Denmark, Ireland and the United Kingdom. In the Eighties, the European Communities expanded even further with the inclusion of Greece, Spain and Portugal.

Meanwhile, in a period of worldwide economic crises, the EEC agreed to establish a European single market within 1 January 1993. This ambitious plan took shape in the Single European Act, signed in February 1986, becoming active on 1 July 1987 and providing the basis for a six-year programme which intended to solve the problems with the free flow of trade across the European borders and to create the “Single Market”<sup>74</sup>.

With the fall of the Berlin Wall in 1989, the consequent unification of Germany in October 1990, and the breakdown of the Soviet union in December 1991, the political shape of

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<sup>71</sup> Pascal Fontaine, *The European Union explained: Europe in 12 lessons*, Luxembourg: EU Publications Office, January 2014, p. 3.

<sup>72</sup> European Union, “The history of the European Union”, <[https://europa.eu/european-union/about-eu/history/1945-1959\\_en](https://europa.eu/european-union/about-eu/history/1945-1959_en)>.

<sup>73</sup> Pascal Fontaine, *The European Union explained: Europe in 12 lessons*, Luxembourg: EU Publications Office, January 2014, p. 3.

<sup>74</sup> European Union, “The history of the European Union”, <[https://europa.eu/european-union/about-eu/history\\_en](https://europa.eu/european-union/about-eu/history_en)>.

Europe was to undergo a great change: a new treaty was negotiated by the European Council at Maastricht since December 1991. The Maastricht Treaty was finally signed on 7 February 1992 and became law on 1 November 1993. It had the major task of creating the European Union (EU), a union based on three “pillars”, the first being the European Economic Community renamed with this Treaty as the European Community, the second being a Common Foreign and Security Policy (CFSP) and the third being police and judicial cooperation in criminal matters.<sup>75</sup>

In 1995, the European Union reached 15 members when three more countries joined the Union, namely Austria, Finland and Sweden, while, only two years after, in December 1997, further negotiations opened, and in 2004 the EU was enlarged even more with 10 new members: the Czech Republic, Hungary, Poland and Slovakia from the former Soviet bloc, the three Baltic states of Estonia, Latvia and Lithuania, Slovenia, Cyprus and Malta. Bulgaria and Romania entered the EU in 2007 and Croatia in 2013.<sup>76</sup> The EU welcomed this extension since it represented the opportunity to help stabilise the European continent, as well as to give the new young democracies the possibility of benefiting from the European integration.<sup>77</sup>

1 January 2002 was an important date to remember in the history of the EU, when it was the protagonist of a great transformation: the establishment of a single currency, the Euro, which replaced the old currencies of the 12 EU countries, making up the so called “Euro area”. The main aim of the Euro was to simplify businesses, make life easier for consumers and allow travellers to move from one state to another with less difficulties.

The EU had, by then, reached a great number of participants, counting with 28 Member States, and found itself to face the new complex challenges of the 21<sup>st</sup> century. This resulted in the necessity of simplifying and making more efficient its system for taking joint decisions. The EU tried to tackle this problem proposing a draft of the EU Constitution, which was signed in October 2004 but never entered into force, since it was rejected twice at national referendum.<sup>78</sup> The final solution emerged with the Treaty of Lisbon, which was signed on 13 December 2007, entered into action on 1 December 2009 and is still in force today. The Treaty of Lisbon is an amending treaty, meaning that it is

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<sup>75</sup> Carlo Focarelli, *Diritto Internazionale I*, Padova: CEDAM, 2012, p. 231.

<sup>76</sup> European Union, “Countries”, <[https://europa.eu/european-union/about-eu/countries\\_en](https://europa.eu/european-union/about-eu/countries_en)>.

<sup>77</sup> Pascal Fontaine, *The European Union explained: Europe in 12 lessons*, Luxembourg: EU Publications Office, January 2014, p. 7.

<sup>78</sup> European Union, “The history of the European Union”, <[https://europa.eu/european-union/about-eu/history/1\\_2000-2009\\_en](https://europa.eu/european-union/about-eu/history/1_2000-2009_en)>.

not an autonomous text, but it formally alters part of the provisions of the former Treaty on European Union (TEU), known as the Maastricht Treaty, and of the Treaty on the Functioning of the European Union (TFEU), which was the Treaty establishing the European Community. Among the major changes generated by the Lisbon Treaty, it has to be mentioned the elimination of the name “European Community” as well as of the concept of the “three pillars”, two elements that were embodied in the old Treaty of Maastricht, in favour of their legal unification under the European Union.<sup>79</sup> Moreover, the Lisbon Treaty provided for the creation of new figures operating in the EU bodies in order to improve the work of the Union, such as the permanent President of the European Council, elected for a term of two and a half years, and the High Representative of the Union for Foreign Affairs and Security Policy.<sup>80</sup>

Even if by means of the Lisbon Treaty, the European Community has been replaced with and succeeded by the European Union, which from the 1 December 2009 exercises all rights and acquires all obligation of the EC, the formal title of the Cotonou Agreement has not been updated yet and remains “the Partnership Agreement between the members of the African, Caribbean and Pacific Group of States of one part, and the European Community and its Member States of the other part”. In the same way, in the text it is still present the reference to the European Community which, where appropriate, shall be read as “the European Union”<sup>81</sup>.

The European Union is founded on the principles of democracy, respect of human dignity, freedom and equality. It wants to be an area where non-discrimination, tolerance and justice prevail. As expressed in Article 2 of the amended Treaty on European Union, the EU is the promoter of peace, security, freedom and justice both within and outside its borders. Due to the strongly belief the EU places on human rights, in particular on the rights of the child and on minorities’ rights, with the Treaty of Lisbon, the Charter of Fundamental Rights of the European Union has become legally binding. This means that all Member States have to recognize the rights set out by the Charter, which implies, for example, the abolition of death penalty in all EU countries.<sup>82</sup>

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<sup>79</sup> August Reinisch, *Essentials of EU Law*, Cambridge: Cambridge University Press, 2009, p. 13.

<sup>80</sup> Pascal Fontaine, *The European Union explained: Europe in 12 lessons*, Luxembourg: EU Publications Office, January 2014, p. 7.

<sup>81</sup> Cotonou Agreement, “Information for readers”, Cotonou, 23 June 2000.

<sup>82</sup> Pascal Fontaine, *The European Union explained: Europe in 12 lessons*, Luxembourg: EU Publications Office, January 2014, p. 29.

All the Treaties stipulated among the EU Member States in these sixty-year period and laying the foundation of the European Union, constitute the so called “primary legislation”, which set the basis for the “secondary legislation”, a large body of regulations, directives and recommendations approved by the EU institutions and with a direct impact on the everyday lives of European citizens. Moreover, the EU disposes also of non-binding acts, namely opinions and recommendations.<sup>83</sup>

European institutions are mainly represented by:

- the European Council,
- the European Parliament,
- the European Commission.

Each of them has different memberships, competences and functions. In addition, Article 9 of Title III, “Provisions on the Institutions”, of the amended Treaty on European Union includes in the EU institutional framework also the Council of Ministers, a juridical body being the Court of Justice of the European Union, and two financial bodies, the European Central Bank and the Court of Auditors. All together, these seven organs shall promote the EU values, “advance its objectives, serve its interests, those of its citizens and those of the Member States, and ensure the consistency, effectiveness and continuity of its policies and actions”<sup>84</sup>.

The top political institution of the EU is the European Council. It is composed by the Heads of State or Government, be they the presidents or prime ministers of the EU Member States, plus the President of the European Commission. Its main objective is to determine which are the EU’s goals and to arrange plans to achieve them. Moreover, it deals with international problems via the Common Foreign and Security Policy (CFSP), a mechanism that was set in place in order to coordinate the different foreign policies of the Member States. In the occasions when the Council of Ministers has not been able to agree on delicate issues, the European Council is also charged with one more task, namely working on the issue in question and finally reaching a shared decision. The European Council usually meets four times a year in Brussels and it is presided over by a permanent President elected by the Member States for a period of two and a half years, with the

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<sup>83</sup> Carlo Focarelli, *Diritto Internazionale I*, Padova: CEDAM, 2012, p. 233.

<sup>84</sup> Treaty on the European Union, Article 13.



possibility of being re-elected once. At present, the role of permanent President of the European Council has been entrusted to the former Polish Prime Minister Donald Tusk.<sup>85</sup>

The other fundamental institution of the European Union is the European Parliament (EP), a body representing European citizens and consisting of 751 members directly elected every five years by universal suffrage since 1979. Each country is entitled with a number of seats for Parliamentary Members in correlation to its population.<sup>86</sup> In Parliament, the Members are then grouped, not by nationality, but by political affinity.<sup>87</sup> The functions the European Parliament covers are many and varied. Firstly, it participates to the legislative work, either “via co-decision”, meaning that Parliament and Council share equal responsibility for legislating in all policy areas in which a qualified majority vote in the Council is required, this ordinary legislative procedure applied over 95% of EU legislation, or “via the assent procedure”, consisting on the exclusively Parliament ratification for EU’s international agreements previously negotiated by the Commission.<sup>88</sup> Secondly, the European Parliament takes part, jointly with the European Council, in the adoption of the EU monetary budget proposed by the Commission, rejecting or approving it. Thirdly, it has the influential role of supervisor of the EU, and in particular of the European Commission. As a matter of fact, when the new Commission has to be appointed, the European Parliament has the power of accepting or refusing the EU Council’s nominee for the new Commission President, and, at any time, can the Parliament dismiss the EU Commission passing a motion of censure. Last but not least, the European Parliament oversees the day-to-day management of EU polices through written and oral questions posed to the Council and to the Commission. The European Parliament major debates happen monthly when “plenary sessions” are convened and they can take place in Strasbourg, where 12 plenary sitting per year are held, or in Brussels, for additional plenary sittings.

The third major body of the EU is the European Commission. It is a key element for the EU, since it is the organ appointed for the drafting of new EU legislations, which are then sent to the EU Council and Parliament for discussion and eventually adoption. Besides having a legislative function, the European Commission represents also the executive arm

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<sup>85</sup> European Council, < <http://www.consilium.europa.eu/en/european-council/>>.

<sup>86</sup> For an overview of the seats allocated to each Member State see Annex 2 - Table 3.

<sup>87</sup> European Parliament, “About Parliament”, <<http://www.europarl.europa.eu/aboutparliament/en/20150201PVL00010/Organisation-and-rules>>.

<sup>88</sup> Pascal Fontaine, *The European Union explained: Europe in 12 lessons*, Luxembourg: EU Publications Office, January 2014, p. 13.

of the EU: it is considered the “Guardian of Treaties”<sup>89</sup> from the moment that it has the duty of controlling that European regulations and directives are implemented in every Member States and, if they are not, it can appeal to the Court of Justice, and it manages EU’s common policies and their budget. The Commission is composed of the College of Commissioners counting with 28 members, one for each country, appointed by the EU Council and including the President, currently Jean-Claude Juncker, the Vice-Presidents and the High Representative of the Union for Foreign Affairs and Security Policy and Vice-President (HR/VP), being at present Federica Mogherini.<sup>90</sup> The College of Commissioners is assisted in its work by a civil service comprising 44 departments and services and by a number of specific agencies located all around Europe. Of the various European Commission departments, two are of key importance and of great influence in the decision-making process of the ACP-EU relationship, namely the Directorate-General for International cooperation and Development (DG DEVCO) and the Directorate-General for Trade (DG TRADE). The first one, DG-DEVCO, consists of 8 Directorates that works under the guidance of the elected Commissioner for International cooperation and Development, currently being Neven Mimica, and of the Director General, at present being Stefano Manservigi.<sup>91</sup> Its ultimate aims are reducing world poverty, promoting democracy, peace and security, and ensuring sustainable development. The second one, DG TRADE, is responsible for all issues related to the common policy the EU adopt in trade relationship with the countries beyond its borders, among this issues there are: improving mark access for exporters and importers, assisting in trade negotiations with countries outside the EU, ensuring that fair practices are applied to international trade, and so on. It operates under the supervision of the present Commissioner for Trade Cecilia Malmström and the Directorate General Jean-Luc Demarty.<sup>92</sup>

Related to the European Council, to the European Parliament and the European Commission, there is the Council of Ministers, consisting of ministers from the EU’s national governments, their area of competence depending on the topic on the European agenda, who meet regularly to pass new laws, adopt the EU budget or sign international agreement previously negotiated by the Commission. In accordance with the Lisbon

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<sup>89</sup> Pascal Fontaine, *The European Union explained: Europe in 12 lessons*, Luxembourg: EU Publications Office, January 2014, p. 14.

<sup>90</sup> European Commission, <[https://europa.eu/european-union/about-eu/institutions-bodies/european-commission\\_en](https://europa.eu/european-union/about-eu/institutions-bodies/european-commission_en)>.

<sup>91</sup> European Commission, “About International Cooperation and Development - DG DEVCO”, <[http://ec.europa.eu/europeaid/general\\_en](http://ec.europa.eu/europeaid/general_en)>.

<sup>92</sup> European Commission, “Trade”, <<http://ec.europa.eu/trade/trade-policy-and-you/contacts/>>.

Treaty, from November 2014, decisions are adopted if there is a majority of 55% between Member States and if they represent 65% of EU's population, at least.<sup>93</sup>

Finally, the European External Action Service (EEAS), the EU's diplomatic service, plays an important role too in the conduct of EU foreign and security policy and in the management of the EU's diplomatic relations with other countries outside the bloc. The Service, headed by the High Representative for Foreign Affairs and Security Policy, was created by the Treaty of Lisbon and formally launched on 1 January 2011. Concretely, its action in Europe and worldwide translates into the support of peace building processes, the promotion of security under the Common Security and Defence Policy, the response to development and humanitarian crisis and the maintenance of good relations with European neighbours through the European Neighbourhood Policy, among the others.

Originated with only six countries, the EU has been able to unify most of the European states, sharing the same moral principles, under common political, economic and social policies. Even if the task of the European Union has not been easy in the past and is not any easier today, due to the cultural, linguistic and ideological differences between the Member States themselves, the EU is giving its member countries the possibility to act as a whole, favouring them with a stronger economic, social, commercial, technological and political power in the worldwide scene, than if they act individually.

### 1.2.3. OTHER ACTORS: NON STATE ACTORS

One of the most important innovations brought in by the Cotonou Agreement, if compared to the previous ACP-EU partnerships, is the mainstreaming participation of non-state actors (NSAs) in the cooperation process. Even though the two main partners in and the signatories of the Agreement are the European Union and the ACP Group, a significant role is played by non-state actors, whose activity is no more restricted to the implementation of processes; on the contrary, it is relevant in all phases and sectors of the Partnership. Their involvement has thus become essential in some issues, such as the support of the democratisation processes in many ACP countries as well as the

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<sup>93</sup> Pascal Fontaine, *The European Union explained: Europe in 12 lessons*, Luxembourg: EU Publications Office, January 2014, p. 12.

contribution to poverty reduction, which is also the main objective of the Cotonou Agreement.

A great variety of new non-state actors are included among the participants of the ACP-EU cooperation, nonetheless, the Agreement does not tackle in detail the question of who should be involved in this cooperation and who should not, rather, a broader and flexible approach is applied. As a matter of fact, Article 6 incorporates in the definition of non-state actors: the “private sector; economic and social partners, including trade union organisations; and civil society in all its forms according to national characteristics” (be they grassroots/community-based organisations, organisations formally constituted, umbrella organisations and thematic networks, and, finally, platforms). Yet, paragraph 2 of the previously mentioned article establishes just a few criteria that non-state actors have to meet in order to qualify for participation, namely they must address the needs of the population, have specific competencies as well as specific levels of organization, and be organised and led in a democratic and transparent way. On the whole, the result of the general approach of the Cotonou Agreement, which does not specifically enlist which are non-state actors allowed to take part to the Partnership, is that the final decision on whether a non-state actor can be integrated in the process or not is taken at a regional or national level,<sup>94</sup> by the official Parties of the Agreement, either the respective ACP government or the EC Delegation, with all the consequences and problems this can entail.

Non-state actors are identified as new coming partners, thus, they are not provided with the same rights as the traditional actors of the Partnership. However, accordingly to Article 4, they shall be informed and involved on cooperation policies, strategies and priorities especially when the organisation are directly affected by them, be provided with financial resources under the Cotonou Agreement conditions and with capacity building support.

The Cotonou Agreement addresses the participation of non-state actors in various articles. In doing so, it relates to all the three pillars of ACP-EU cooperation: development cooperation, trade and political dimension. Regarding the development cooperation area, non-state actors involvement covers all fields and steps of the process, from the programming, evaluation and implementation of projects and sector programmes, to the inclusion in various review mechanism. Indeed, Article 19 states that “government and non-state actors in each ACP country shall initiate consultations on country development

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<sup>94</sup> ECDPM, *The Cotonou Agreement: A User's Guide for Non-State Actors*, Brussels: ACP Secretariat, 2003, p. 33.

strategies and community support thereto”, while Article 33 adds that “cooperation shall span all areas and sectors”. For what trade concerns, there are references to the role of non-state actors only in the already mentioned Article 4. However, a policy paper issued by the ACP Committee of Ambassadors in 2002<sup>95</sup> declares that the negotiating obligations, position and strategy of the ACP Group may be effectively complemented by the involvement of non-state actors. Lastly, the involvement of non-state actors in the political dimension is regulated by Article 8 and Article 10 of the Cotonou Agreement, which state respectively that “regional organisations as well as representatives of civil society organisations shall be associated with this (political) dialogue” and that “greater involvement of an active and organised civil society and the private sector (are seen as) contributing to the maintenance and consolidating of a stable and democratic political environment”. Concretely, this is translated into non-state actors contribution to the broader dialogue at the ACP-EU level, but also into their participation in programmes that promote democratisation processes as well as in the monitoring of budget support.

On the whole, the Cotonou Agreement charges non-state actors with two major roles, they act as service providers and/or as partners in dialogue.<sup>96</sup> Actually, thanks to the long-lasting tradition and experience that non-state actors involved in service provisions have built in the delivery of social services in sectors such as education, health and care, they can prove to be useful and essential service providers in the implementation of programmes. Working in complementarity with central and local governments, they can help improving people’s conditions where there is more need and implementing EDF projects in a more efficient way. One of the means that allow this kind of collaborations is, for example, the Public-Private Partnership (PPP), a contract concluded between a private agency and a government entity for providing a public asset or service. As partners in dialogue, non-state actors that are concerned the most are advocacy groups, such as human rights or trade unions, which can advocate their point of view on specific issues they are used to deal with, and discuss with decision makers on the orientation of cooperation policies.

It is evident that the non-state actors that are mostly involved in the ACP-EU Partnership are those located and working in ACP countries, consistent with the willingness of the

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<sup>95</sup> ECDPM, *The Cotonou Agreement: A User’s Guide for Non-State Actors*, Brussels: ACP Secretariat, 2003, p. 28.

<sup>96</sup> Sylvia Hangen-Riad, *Finding your way through the Cotonou Agreement*, Regensburg: Friedrich-Ebert-Stiftung, August 2004, p. 17.

Cotonou Agreement that wants to put at the centre of the development process of the ACP states their own local actors. In order to facilitate and promote cooperation between the ACP non-state actors and the governmental actors of those states, the ACP Group has established:

- the ACP Civil Society Forum, an international organisation made up of non-for-profit organisations located in the ACP territories and with the aim of strengthening the participation and work of ACP civil society organisations on issues related to ACP-EU development cooperation;
- the ACP Business Forum, a platform for private institutions and enterprises with the purpose of supporting and effectively increasing the involvement of ACP private actors in the ACP-EU Partnership as well as their collaboration with EU business partners.<sup>97</sup>

Despite the fact that the Cotonou Agreement focuses especially on non-state actors from ACP countries, coherent once again with the general purpose of this Agreement and in line with its overall philosophy which emphasizes the centrality of the ACP actors in their own development process, European organisations and non-governmental institutions are not excluded or left aside.<sup>98</sup> On the contrary, their contribution to the achievement of the Agreement's objectives is essential, too, in particular when they collaborate with non-state actors from the ACP countries, consolidating a reciprocal relationship.

The inclusion of non-state actors among the protagonists of the Cotonou Agreement represents a great advancement in the way relations are established in the development cooperation field. Although in the ACP-EU Partnership non-state actors participation is lower than and submitted to the decision of the leading actors, the ACP Group and the EU, their contribution proves to be of great importance, thanks to the practical approach they have in their territories and their commitment to work on the field.

### 1.3. THE JOINT ACP-EU INSTITUTIONS

The pledge the European Union and the ACP Group have made signing the Cotonou Agreement is not an easy one to honour. The area affected by the rules of the ACP-EU

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<sup>97</sup> ACP, <<http://www.acp.int/node/7>>.

<sup>98</sup> ECDPM, *The Cotonou Agreement: A User's Guide for Non-State Actors*, Brussels: ACP Secretariat, 2003, p. 34.

Partnership is vast, comprising the territories of five continents and more than a hundred countries, as a consequence, the economic, social and ideological differences are quite evident.

With a view to grant a better coordination and uniformity between the EU and the ACP Group, and in order to increase the efficiency of their work, the Cotonou Agreement provides for three joint official bodies, which steer ACP-EU cooperation:

- the Council of Ministers,
- the Committee of Ambassadors,
- the Joint Parliamentary Assembly (JPA).

They are recognized as “the joint institutions of the Agreement” in Article 14, Part 2 “Institutional Provisions”. Additionally, Annex III to the Agreement regulates the support to and the functioning of other two already existing joint ACP-EU institutions, which have a precise mandate and are tasked to improve specific objectives. These are: the Technical Centre for Agricultural and Rural Cooperation ACP-UE (CTA) and the Centre for the Development of Enterprise (CDE).

An analysis of the institutional set-up of the ACP-EU Partnership will be offered in the following sections, where a profile of the ACP-EU joint institutions will be presented, tackling their history, composition, and functions.

### 1.3.1. THE JOINT COUNCIL OF MINISTERS

The first of the three ACP-EU joint institutions here analysed, the Council of Ministers, is not a new body in the framework of the ACP-EU Partnership: its creation dates back to 1963, when the Yaoundé Convention between the former European Economic Community (ECC) and the Associated African States and Madagascar (AASM) was signed.<sup>99</sup> It was then preserved in the Lomé Conventions as well as in the Cotonou Agreement, where all the aspects of this organ are treated in Article 15, Part 2, which describes its main characteristics, enlists its functions and procedures.

In accordance with Article 15, the joint Council of Ministers is composed of the members constituting the Council of the European Union and the Commission of the European

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<sup>99</sup> Jean Bossuyt, Niels Keijzer, Alfonso Medinilla and Marc De Tollenaere, *The future of ACP-EU relations: A political economy analysis*, ECDPM: Maastricht, January 2016, p. 78.

Communities on the one part, and of a member of the government of each ACP state, on the other. To perform the role of the President of the Council of Ministers, a representative of the Council of the European Union and one of the Government of the ACP States shall be alternated.

The functions this institution performs focus mainly on the management of the ACP-EU Partnership. In this context, the Council of Ministers may frame decisions, opinions, recommendation and resolutions. Decisions are taken by common agreement of the Parties and are legally binding. Secondly, the Council of Ministers is charged with the conduction of the political dialogue between the Parties involved. Thirdly, it is responsible for the adoption of the policy guidelines as well as of the decisions necessary to effectively implement the Cotonou Agreement provisions, especially those concerning procedures and development strategies taking place in the specific areas indicated in the Agreement, or in other relevant areas. In the event that an issue impedes the implementation of the Agreement or represents an obstacle to the achievement of its objectives, the Council of Ministers has to examine the problem in question and propose a solution. Lastly, it shall ensure the regular functioning of the consultation mechanism and, in this respect, the ongoing dialogue with “the representatives of the social and economic partners and other actors of civil society in the ACP and the EU”<sup>100</sup> shall represent an element of major importance.

As a rule, the Council of Ministers meets once a year under the President initiative, but additional meetings may be organized when it is considered necessary.

Finally, Protocol 1 “On the operating expenditure of the joint institutions” of the Cotonou Agreement specifies that expenditure related to the participation at the meetings has to be covered by each of the Parties, the EU and the ACP Group.

### 1.3.2. THE JOINT COMMITTEE OF AMBASSADORS

Similarly to the joint Council of Ministers, the joint Committee of Ambassadors was instituted in 1963 with the Yaoundé Convention and is still today an important component in the shared administration and co-management of the ACP- EU Partnership.

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<sup>100</sup> Cotonou Agreement, Part 2 “Institutional Provisions”, Article 15(3).



The members it is constituted of are, on the one and, the permanent representative of each EU Member State and a representative of the Commission, on the other hand, “the head of mission of each ACP State to the European Union”<sup>101</sup>.

The duties of the Committee of Ambassadors are mainly related to the work of the ACP-EU Council of Ministers. As a matter of fact, it has to assist the Council of Ministers in the attainment of its tasks and to complete the assignments entrusted to it by the Council. With regard to the functions more closely related to the Cotonou Agreement, the Committee of Ambassadors has the responsibility to monitor its implementation and to progress in the achievement of the objectives therein set.

The joint Committee of Ambassadors meets regularly during the year, particularly when the sessions of the joint Council of Ministers have to be prepared and at any other time when it proves necessary.

### 1.3.3. THE JOINT PARLIAMENTARY ASSEMBLY

The Joint Parliamentary Assembly (JPA) is the result of the desire of the EU and the ACP Group to bring together the representatives of each Party signatory of the Agreement in a consultative body. It is an innovative institution given the fact that it figures as the only international assembly present worldwide where delegates from various countries meet with the objective of promoting North-South interdependence.<sup>102</sup> It was firstly instituted by the Cotonou Agreement, and the specificities of its members and the tasks it has to perform are addressed in Article 17, Part 2 of the Agreement.

According to Article 17, the JPA is composed of an equal number of members of the European Parliament, and of parliamentary members of each ACP country or, in their absence, of “representatives designated by the parliament of each ACP State” approved by the Joint Parliamentary Assembly. Overall, 156 members constitute this body. The Joint Parliamentary Assembly comprises, then, two co-presidents (one for each Party) who are elected by the Assembly and which direct the work of this organ, and the Bureau of the JPA, composed of 24 vice-presidents, 12 for the EU and 12 for the ACP Group, also elected by the Assembly. The Bureau meets several times a year in order to organise new

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<sup>101</sup> Cotonou Agreement, Part 2 “Institutional Provisions”, Article 16.

<sup>102</sup> ACP-EU Joint Parliamentary Assembly, <[http://www.europarl.europa.eu/intcoop/acp/20\\_01/default\\_en.htm](http://www.europarl.europa.eu/intcoop/acp/20_01/default_en.htm)>.

initiatives aimed at improving cooperation, to ensure the continuity of the Assembly work and to consider topical political questions and human rights cases.

Furthermore, in 2003, three Standing Committees have been created to draft substantive proposal on their specific area of competence, these proposal are then voted by the JPA and, eventually, put into practice. The Standing Committees are respectively:

- the Committee on Political Affairs;
- the Committee on Economic Development, Finance and Trade;
- the Committee on Social Affairs and the Environment.

The first and most substantial of the tasks the Joint Parliamentary Assembly shall carry out is the promotion of “democratic processes through dialogue and consultation”<sup>103</sup>. Indeed, most of its work focuses on the fostering of actions in favour of the support and defence of democracy, human rights and common values of humanity, with the aim of guaranteeing the right of each people to choose its own development objectives and how to attain them. Among its initiatives in this field there are: the upgrading of the role of women in the development process, the adoption of measures to reinforce the commitment to respect human rights and human dignity, the acceleration of aid procedures and the increase in appropriations intended for refugees and for displaced persons. In this regard, the JPA has also undertaken various joint commitments within the framework of the UN conferences.<sup>104</sup> Other duties of the Joint Parliamentary Assembly refers to facilitating the understanding between the peoples from the European Union and those from the ACP Group of countries, raising awareness of development issues, and monitoring the implementation of the ACP-EU Partnership.

In order to have the certainty that its initiatives are translated into reality and not left only committed to paper, the Assembly undertakes regularly exploratory or fact-finding missions. By doing so, its members come into direct contact with the situation on the ground and verify the progresses made in the various developing countries.

The Joint Parliamentary Assembly meets in plenary session twice a year, once in an EU member state and once in an ACP state, alternatively. As specified in Article 17 of the Agreement, meetings “between EU and ACP members of parliament shall be arranged at

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<sup>103</sup> Cotonou Agreement, Part 2 “Institutional Provisions”, Article 17.

<sup>104</sup> ACP-EU Joint Parliamentary Assembly, <[http://www.europarl.europa.eu/intcoop/acp/20\\_01/default\\_en.htm](http://www.europarl.europa.eu/intcoop/acp/20_01/default_en.htm)>.

regional level”, so as to strengthen regional integration and foster cooperation between the Parties’ member states.

#### 1.3.4. THE DEDICATED JOINT INSTITUTION

Annex III “Institutional support, CDE and CTA” of the Cotonou Agreement highlights that the cooperation process promoted within the framework of the ACP-EU Partnership shall, in the same way, support “the institutional mechanisms that provide assistance for business and enterprises, and promote agriculture and rural development” (Article 1). These two bodies are:

- the Centre for the Development of Enterprises (CDE),
- the Technical Centre for Agricultural and Rural Cooperation ACP-EU (CTA).

##### **The Centre for the Development of Enterprises (CDE)**

The Centre for the Development of Enterprises (CDE) was originally founded in 1977 under the first Lomé Convention, under the name of “Centre for Development of Industry”<sup>105</sup>. In Article 2 of Annex III attached to the Cotonou Agreement, the role of the CDE has been confirmed and further broadened in the field of ACP-EU development cooperation.

Actually, when it was first created, the CDE focused mainly in the organisation of trade fairs, subsequently, with the Cotonou Agreement, its activities were reoriented towards a more concrete help to increase competitiveness of ACP business and to foster ACP-EU economic partnership.<sup>106</sup> The second revision of the Agreement in 2010 extended the role of the CDE even more. Today, the mandate of the CDE entails the support to the “implementation of private-sector development strategies in the ACP countries”<sup>107</sup> as well as the assistance to joint initiatives promoted by economic operators of the ACP states and the EU. It provides mainly non-financial services, such as studies, trainings, consultancy services and technical assistance, to enterprises from the ACP countries and to the ACP-EU economic projects. The CDE’s remit covers also the service sectors, be they tourism, transport and telecommunications.

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<sup>105</sup> CDE, “The CDE: a facility for the ACP private sector”, < <https://www.cde.int/en/about>>.

<sup>106</sup> Jean Bossuyt, Niels Keijzer, Alfonso Medinilla and Marc De Tollenaere, *The future of ACP-EU relations: A political economy analysis*, ECDPM: Maastricht, January 2016, p. 80.

<sup>107</sup> Cotonou Agreement, Annex III “Institutional support, CDE and CTA”, Article 2(1).

Two major projects have been developed by the CDE in order to better carry out its tasks and need to be mentioned here:

- the Private Sector Development Programmes, and
- the Energy Efficiency Management Programme.

The first one consists of a number of Private Sector Development Programmes (PSDPs) established between the EU and some ACP countries or regions. As the name of the initiative suggests, it comprises support programmes for the private sector formulated and implemented by the CDE,<sup>108</sup> which provides for: the mobilisation of funds coming from public or private sectors, academia, parastatals or funds raising; for framework studies and analysis; and finally for a concrete intervention. The majority of financial sources comes from the European Development Fund, regional organisations, national governments and private and institutional donors. The second great initiative promoted by the CDE is the Energy Efficiency Management Programme (EEMP). Started in 2007, it has the objectives of contributing to the reduction of greenhouse gas emissions and of enhancing the competitiveness of the Small-Medium Enterprises (SMEs) through the mainstream of best practices in energy management.

The Headquarters of the CDE are located in Brussels, where the Director of the CDE, its team of Experts and Heads of regional offices, and the Executive Board made up of three EU and three ACP members, carry out their main tasks. The supervisory authority of the CDE is the ACP-EU Committee of Ambassadors, which is also responsible for appointing the Executive board. Furthermore, the CDE disposes of six regional offices, situated one in each ACP region, to allow quicker interventions on the field, a greater use and involvement of local expertise, as well as a lower threshold for SMEs who wants to benefit from CDE support.

Unfortunately, the joint ACP-EU Council of Ministers, during the 39<sup>th</sup> session held on 19 and 20 June 2014 in Nairobi, agreed “to proceed with the orderly closing of the Centre for the Development of Enterprises” by 31 December 2016.<sup>109</sup> The key factors that led to this decision were the desire both on the EU and ACP side of a “more direct private sector engagement” in line with the outcome of the 4<sup>th</sup> High Level Forum on Aide Effectiveness in Busan, as well as the evolution of the international context characterised of an increase

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<sup>108</sup> The six PSDPs currently running are presented in Annex III - Table 6.

<sup>109</sup> Council of the European Union, *Council Decision (2016/298) on the position to be adopted by the European Union within the ACP-EU Committee of Ambassadors regarding approval of derogations to the Financial Regulation of the Centre for the Development of the Enterprise (CDE)*, Luxembourg: EU Publications Office, 29 February 2016.

in “the number of actors and modalities capable of providing effective private sector support”<sup>110</sup>. By the way, the ACP-EU Council of Ministers has assured that the ongoing projects of private sector support implemented by the CDE will be fully completed.

### **The Technical Centre for Agricultural and Rural Cooperation ACP-UE (CTA)**

The institutionalisation of the Technical Centre for Agricultural and Rural Cooperation ACP-UE (CTA) dates back to 1983, when the second Lomé Convention between the ACP Group of states and the European Union was signed. At present, its objectives and its functioning are regulated by Article 3 of Annex III to the Cotonou Agreement, which states that the mission of the CTA shall be “to strengthen policy and institutional capacity development” as well as “information and communication management capacities of ACP agricultural and rural development organisations”.

Indeed, the CTA main aims are the promotion of food and nutritional security, the fostering of prosperity and the support to the efficient management of natural resources. In order to achieve its goals, it makes use of multi-stakeholder engagement, networks in the ACP countries, capacity-building and empowerment of agricultural and rural development organisations, effective communication and knowledge management, and greater information.

In particular, with a view to contribute to a greater food and nutrition security and to a better impact of the CTA’s work, the 2016-2020 Strategic Plan drafted by the CTA has established three strategic interrelated goals: enhance capacity for knowledge management, facilitate agricultural policies, and develop profitable smallholder value chain.

Moreover, all the activities carried out by the CTA have been organised under two operational programmes:

- the Policies, Markets and Information & Communication Technologies (PMI),
- the Knowledge Management and Communication (KMC).

The first one, the PMI, is charged with the achievement of two of the objectives of the 2016-2020 Strategic Plan, namely enhancing awareness and knowledges for engaging in the development of the agricultural value chain and of rural development processes; and enhancing the participation of multi-stakeholder in the rural and agricultural field. Instead,

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<sup>110</sup> Council of the European Union, *Council Decision (2016/740) on the position to be taken on behalf of the European Union within the ACP-EU Committee of Ambassadors regarding the mandate to be given to the Executive Board of the Centre for the Development of Enterprise (CDE)*, Luxembourg: EU Publications Office, 9 October 2014.

the second operational programme, the KMC, contributes to the third CTA's strategic goal, enhancing information, communications and knowledge management capacity of those ACP organisations involved in ACP agricultural value chain development and in ACP agricultural policy processes. Among its different master projects there is for example "Strengthening methodologies, skills and tools for knowledge management"<sup>111</sup>.

Both the "Policies, Markets and Information & Communication Technologies" and the "Knowledge Management and Communication" programmes are monitored and supported by a specific Unit, the Learning, Monitoring and Evaluation Unit (LME), which ensures that CTA's activities are consistent with the Strategic Plan and provides evaluations and feedbacks of the projects.

The work conducted by the Technical Centre for Agricultural and Rural Cooperation is always driven by the core values of the institution: commitment to development, transparency and desire to empower communities and groups; whereas its members and partners have clear in mind the CTA's vision: "to be the partner of choice for individuals and organisations aspiring to empower agricultural and rural communities in Africa, the Caribbean and the Pacific with the knowledge and skills they need to fight hunger and increase prosperity"<sup>112</sup>.

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<sup>111</sup> CTA, < <http://www.cta.int/en/our-programmes/knowledge-management-and-communication-kmc.html>>.

<sup>112</sup> CTA, "Who we are", < <http://www.cta.int/en/about/who-we-are.html>>.



**CHAPTER 2**

**THE LONG HISTORY OF THE ACP-EU PARTNERSHIP:  
FROM THE YAOUNDÉ CONVENTIONS TO THE  
COTONOU AGREEMENT**



## **2. THE LONG HISTORY OF THE ACP-EU PARTNERSHIP: FROM THE YAOUNDÉ CONVENTIONS TO THE COTONOU AGREEMENT.**

The Cotonou Agreement is, of course, an all-inclusive and innovative cooperation arrangement, enclosing ACP-EU shared aims, principles and commitments. However, it is also the result of a process based on old historic and legal ties between the two contracting Parties: its Articles, Annexes, Protocols and Declarations hide a decades-long or even centuries-long ACP-EU relationship. Hence, how did the EU and the ACP Group get to the Cotonou Agreement?

ACP-EU economic and political relations date back to the colonial era, when, in the Fifteenth century, Europe came into contact with new territories and people, among the others with regions of the Caribe, the Pacific, and the African continent. Strong colonial ties between Europe and the countries belonging to the ACP area were established since then, and they were destined to last for centuries. Inevitably, during this time, their relationship had to undergo some transformations, but it was always able to resist and to adapt to changes. It was in particular in the Twentieth century that the adaptability of ACP-EU partnership was tested: in the late 1940s the decolonization exercise began and, in the following years, many colonies declared their independence from Europe. In the meantime, the European countries had started a process of integration and unification, instituting, firstly, the European Coal and Steel Community in 1952, and then, with the Treaty of Rome, the European Economic Community. As a consequence, the former relations between Europe and the African, Caribbean, Pacific countries had to be reviewed and a “new postcolonial relationship” was set down.<sup>113</sup>

The Yaoundé Convention, signed in 1963, could be considered the first real step taken in ACP-EU cooperation, although, at that time, the ACP Group had not yet been created. Actually, the Yaoundé Convention was signed between the EEC and the A.A.S.M. (Associated African States and Madagascar), a precursor of the ACP Group, and it regulated mainly economic and financial issues between the Parties. It was followed by Yaoundé II Convention in 1969.

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<sup>113</sup> Carolyn Rhode, *The European Union in the World Community*, Boulder: Lynne Rienner Pub, May 1998, p. 129.

The entrance of the United Kingdom into the EEC in 1973 and its economic and political ties with the Commonwealth territories, made both the EEC and the AASM reflect on their reciprocal positions and roles. The result was the creation of the ACP Group in 1975, as well as the establishment of the First ACP-EEC Convention of Lomé, in the same year. The Lomé I Convention was renegotiated and renewed four times, until the expiry of Lomé IV in 2000. It covered a period of 25 years, during which many changes occurred in the global framework, deeply influencing the ACP-EEC Partnership: the Cold War, the debates on a “new economic order” and the Structural Adjustment Programmes, the fall of the Soviet Union in 1991 and the democratization process that followed. These were only some of the events affecting the consultations of the Lomé Conventions,<sup>114</sup> and leading, in the end, to the negotiations of the Cotonou Agreement in 2000.

In the next sections an analysis of each one of the Conventions will be presented, with particular attention to the adjustments made on each occasion, as well as to both the internal and external factors motivating the amendments.

## 2.1. THE YAOUNDÉ CONVENTIONS (1963-1974)

When the European Economic Community was created in 1957, all the six founding members, with the exception of Luxembourg, had a colonial legacy and had maintained preferential relationships with their former colonies, mainly African countries. The association of colonies, their position towards the new-born EEC and the treatment they should be reserved showed up to be the most difficult issues during the negotiations of the Treaty of Rome.<sup>115</sup> In particular, France and Belgium called for the inclusion of the former colonies in the community-to-be, worrying that the creation of a Common Market and the imposition of Common External Tariffs (CET), as envisaged by the Treaty, would have threatened their colonial arrangements.<sup>116</sup> Agreement was finally reached with the wording of Articles from 131 to 136, Part IV of the Treaty of Rome, where it was specified that “the Member States agree to associate with the Community the non-European countries and

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<sup>114</sup> ECDPM, *Cotonou Infokit - History and Evolution of ACP-EU Cooperation*, Maastricht: ECDPM, 2001, p. 1.

<sup>115</sup> Miroslav N. Jovanović, *The Economics of European Integration: Limits and Prospects*, Cheltenham: Edward Elgar Pub, March 2005, p. 532.

<sup>116</sup> Carolyn Rhode, *The European Union in the World Community*, Boulder: Lynne Rienner Pub, May 1998, p. 129.

territories which have special relations with Belgium, Denmark, France, Italy, the Netherlands and the United Kingdom” (Article 131). Thanks to these provisions, the free trade system was extended to the European associated states and they were given financial assistance with the institutionalisation of a financing instrument, the so called European Development Fund (EDF).<sup>117</sup>

In the first years of the 1960s, pursuing an already initiated trend, many African countries became independent and it was up to each of them decide whether to continue to be EEC associates or not. Eighteen countries voted for association. It followed that on 20 July 1963 the first Association Convention of Yaoundé (Yaoundé I Convention) was signed in the capital of Cameroon. The contracting Parties were the European Economic Community on the one side, and the states of Burundi, Cameroon, Congo-Brazzaville, Congo-Léopoldville, Côte d’Ivoire, Dahomey, Gabon, Haute-Volta, Madagascar, Mali, Mauritania, Niger, Rwanda, Senegal, Somalia, Chad and Togo, reunited under the A.A.S.M. (Associated African States and Madagascar), on the other side. Although AASM first objective was not that of associating African countries with one another, the regular dialogue engaged by its member states in order to discuss the business with the EEC contributed to the creation of a unitary front to approach the “big world economic problems”<sup>118</sup>.

The Yaoundé Convention was the first comprehensive agreement negotiated between the European Economic Community and a group of sovereign states.<sup>119</sup> Basically, it was an economic and financial aid programme established for a five-year period (1964-1969) and addressed to French-speaking countries and sub-Saharan Africa. Its main aim was maintaining the preferential relationship with ex-colonies, as previously provided by Articles 131-136 of the Treaty of Rome. Indeed, the Convention granted quota- and duty-free entry of exports from the AASM states into the European market; reciprocal trade preferences which allowed preferential treatment of manufactured AASM exports into the ECC, with limits imposed for agricultural exports, and limited volumes of manufacture

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<sup>117</sup> Kalle Laaksonen, Petri Mäki-Fränti and Meri Virolainen, *Lomé Convention, Agriculture and Trade Relations between the EU and the ACP Countries in 1975-2000- Working paper 06/20*, Helsinki: Pellervo Economic Research Institute, 2006, p. 5.

<sup>118</sup> Charles Schiffman, *A negotiation and a convention*, in *The Courier no. 31- Special Issue*, Brussels: Commission of the European Communities, March 1975, p. 3.

<sup>119</sup> Carolyn Rhode, *The European Union in the World Community*, Boulder: Lynne Rienner Pub, May 1998, p. 129.

exported from the EEC to AASM members;<sup>120</sup> financial aid in the form of loans from the EIB (EUA 64 million) and through a second EDF amounting to EUA 666 million;<sup>121</sup> and the creation, for the first time, of joint institutions to oversee the Yaoundé Association.

In 1969, the Yaoundé Convention was renegotiated and renewed, resulting in the Yaoundé II Convention, which entered into force that same year for a period of five years. It did not bring about many changes: its structure and the instruments it provided for were essentially the same.

Thought, the few innovations introduced with the Yaoundé II Convention were mainly related to the awareness among the members of the AASM that they were no more the only countries enjoying duty reductions and customs preferences. As a matter of fact, in those years (end of the 1960s - begin of the 1970s) the ECC offered tariff preferences also to East African states, as well as to 91 underdeveloped countries, creating thus economic competitors for the AASM. Moreover, the GATT duty reductions had already been negotiated between the EEC and the US in the Dillon and Kennedy rounds. The new Yaoundé II Convention tried to deal with these points, broadening its mission to wider development areas: it offered aid in the trade promotion of AASM products, for example supporting their participations in exhibitions and fairs; and it provided for emergency aid to the signatory countries, of which Senegal, in particular, benefited the most.<sup>122</sup> The money to be allocated to the AASM countries through the now third EDF were increased to about EUA 843 million, while the EIB resources were raised too to EUA 90 million.<sup>123</sup>

With the UK becoming a new member of the European Community (the British Treaty of Accession into the EEC was signed in 1973), the EEC had to examine the possibility of granting an agreement similar to the one concluded with the AASM group to the states of the British Commonwealth.<sup>124</sup> Two major facts resulted from 1973 events:

- Firstly, a new alliance was instituted between the former developing countries signatories of the Yaoundé Conventions (the AASM) and the 20 states of the British

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<sup>120</sup> Kenneth A. Reinert, Ramkishan S. Rajan, Amy Joycelyn Glass, Lewis S. Davis, *The Princeton Encyclopedia of the World Economy – Vol. 1*, Princeton and Oxford: Princeton University Press, 2009, p. 6.

<sup>121</sup> Marjorie Lister, *The European Union and the South: Relations with Developing Countries*, London: Routledge, 1997, p. 113.

<sup>122</sup> Charles Schiffman, *A negotiation and a convention*, in *The Courier no. 31- Special Issue*, Brussels: Commission of the European Communities, March 1975, p. 4.

<sup>123</sup> Marjorie Lister, *The European Union and the South: Relations with Developing Countries*, London: Routledge, 1997, p. 113.

<sup>124</sup> Carolyn Rhode, *The European Union in the World Community*, Boulder: Lynne Rienner Pub, May 1998, p. 130.

Commonwealth. This new body was named the “African, Caribbean and Pacific Group of states” (ACP Group).<sup>125</sup>

- Secondly, a new comprehensive agreement was established between the EEC and the new-born ACP Group, the Lomé Convention, which substituted the already expired Yaoundé II Convention of Association, and which represented the real beginning of the long-lasting ACP-EU Partnership.

## 2.2. THE LOMÉ CONVENTIONS

For about 25 years, the Lomé Conventions regulated the relationship between the European Economic Community (after become the European Union) and the African, Caribbean and Pacific Group of states. They consist of four subsequent revisions of the First Lomé Convention that provided each time for the necessary amendments and improvements of the Partnership. Each one of the Lomé Conventions will be analysed in more detail in the following sections.

### 2.2.1. THE FIRST LOMÉ CONVENTION (1975)

The Lomé I Convention was signed on 28 February 1975, in the capital of Togo, Lomé, between 46 ACP countries and 9 EEC Member States.<sup>126</sup>

It was not an easy and fast agreement, since it was preceded by two conferences and 18 months of negotiations. As a matter of fact, in July 1973 the delegations of the ACP states came to Brussels for an exchange of views with the Europeans in relation to the future links to be established between them. Three spokesmen were nominated by the ACP representatives, one for each geographical area of the Group, and they expressed the necessities and priorities for the ACP states, such as no limitation for agricultural products to European market access and the elimination of non-tariff obstacles. However, due to the many differences in scope and interests of the Parties, agreement was difficult to reach and,

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<sup>125</sup> Kenneth A. Reinert, Ramkishen S. Rajan, Amy Joycelyn Glass, Lewis S. Davis, *The Princeton Encyclopedia of the World Economy – Vol. 1*, Princeton and Oxford: Princeton University Press, 2009, p. 7.

<sup>126</sup> Ibid.

in the end, no certain outcome resulted.<sup>127</sup> Almost a year later, at the end of July 1974, a second conference at ministerial level was held at Kingston, Jamaica, on the initiative of the ACP Group. It was on this occasion that the EEC and the ACP Group were able to find a common ground, which led to a comprehensive agreement finally signed on 28 February 1975, in the capital of Togo, Lomé.<sup>128</sup> Meanwhile the Yaoundé II had expired.

The Lomé I Convention was a great achievement, unique in history, that was celebrated by the former European Commission member responsible for development and cooperation as an agreement come “at a significant moment” and that “proves how important [ACP-EU relationship] is to Europe, for without she might well have drawn in on herself. It is at a time when too many countries and too many people, in the industrial countries and in the Third World, are talking in terms of confrontation, that we have firmly committed ourselves to the dynamic of cooperation”<sup>129</sup>. These words can convey the idea of how valuable and one-of-a-kind this Convention was at that time and is considered ‘till today, to the extent that it served as a “pilot scheme” for other forms of cooperation agreements established from that moment on.

The keystone of the first Lomé Convention, the foundation principle on which it was based, was equal partnership. This meant that ACP countries were charged with the management of the Lomé resources with only the support of the ECC, and, hence, the ACP Group was responsible for the development of its own Member States.<sup>130</sup>

The issues tackled in the first Lomé Convention, then, concerned mainly trade arrangements between the EEC and the ACP countries, and financial aids to be allocated to these last ones. Accordingly, the first important feature of the Lomé I Convention was the establishment of a non-reciprocal trade preferences regime, in order to encourage ACP exports to the EEC as a stimulus to economic development.<sup>131</sup> This provided for tariff advantages and, in certain cases, also non-tariff advantages (e.g. on quotas) to ACP products, be they manufactured or agricultural products not competing with European

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<sup>127</sup> Charles Schiffman, *A negotiation and a convention*, in *The Courier no. 31- Special Issue*, Brussels: Commission of the European Communities, March 1975, p. 5.

<sup>128</sup> Carolyn Rhode, *The European Union in the World Community*, Boulder: Lynne Rienner Pub, May 1998, p. 130.

<sup>129</sup> Claude Cheysson, Speech at the signing ceremony of the Lomé Convention, 28 February 1975, reported in *The Courier no. 31- Special Issue*, Brussels: Commission of the European Communities, March 1975, p. 13.

<sup>130</sup> ECDPM, *Cotonou Infokit - History and Evolution of ACP-EU Cooperation*, Maastricht: ECDPM, 2001, p. 1.

<sup>131</sup> Carolyn Rhode, *The European Union in the World Community*, Boulder: Lynne Rienner Pub, May 1998, p. 130.

ones.<sup>132</sup> For instance, ACP manufactured and processed products entering the single European market were exempted from certain restrictions, mainly non-tariff barriers, as well as from customs duties. The sole condition imposed by the EEC was that the products had to be in conformity to the “rules of origins”, in order to attest that the goods really originated from ACP countries and not from non-beneficiary states. For agricultural products, trade showed up to be more complex and limited: only tropical products could enter the EEC market duty free, since they did not compete with European products, while temperate products could only benefit from the exemption of some restrictions, such as quotas and high import duties.<sup>133</sup> Furthermore, since the established trade regime was not reciprocal, the ACP countries had the advantage of not being obliged to grant EU products special access to their national markets, and could, by contrast, restrict the entry of EU goods through taxation

In addition, the agreement was supplemented with four specific Protocols concerning the trade of sugar, rum, bananas, and beef and veal. These Protocols allowed free access to the EEC market of fixed quota of these designated products, when they originated from certain selected ACP countries. In accordance with the Sugar Protocol, for example, the EEC agreed to buy each year fixed quantities of raw cane sugar at a guaranteed minimum price from ACP producers (Protocol 3, Article 25). This Protocol was the consequence of the UK’s entry into the EEC and of its desire to maintain the trading agreements established with its former colonies.<sup>134</sup> Similarly, the Banana Protocol provided for duty-free entry to the European market for specific quota of bananas, this being a valuable preference for many small island Caribbean states. The Beef and Veal Protocol, introduced in 1976, proved, instead, to be important for Southern Africa exporters, allowing a tax refund of 90% on beef imports from many ACP countries.<sup>135</sup> The benefits resulting from the institution of the non-reciprocal trade preferences regime were relevant especially for the

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<sup>132</sup> Kalle Laaksonen, Petri Mäki-Fränki and Meri Virolainen, *Lomé Convention, Agriculture and Trade Relations between the EU and the ACP Countries in 1975-2000- Working paper 06/20*, Helsinki: Pellervo Economic Research Institute, 2006, p. 10.

<sup>133</sup> Henri-Bernard Solignac Lecomte, *Effectiveness of Developing Country Participation in ACP-EU Negotiations - Working Paper*, London: Overseas Development Institute, 2001, p. 41-42.

<sup>134</sup> Kenneth A. Reinert, Ramkishan S. Rajan, Amy Joycelyn Glass, Lewis S. Davis, *The Princeton Encyclopedia of the World Economy – Vol. 1*, Princeton and Oxford: Princeton University Press, 2009, p. 7.

<sup>135</sup> ACP, “The Lomé Convention”, <<http://www.acp.int>>.

ACP Group, whose exports raised by almost 250% between 1976 and 1980 and by almost 300% between 1976 and 1995.<sup>136</sup>

In the second place, with Lomé I, industrial and technical cooperation took a more significant role in the development process, if compared to the previous Yaoundé Conventions. Accordingly, in 1975, two bodies were created with the objective of fostering industrial and technological development: the Industrial Cooperation Board and the Centre for Industrial Development.<sup>137</sup>

Thirdly, the Lomé I Convention granted the extension of direct financial assistance under the fourth EDF, through which about EUA 3 billion were allocated to ACP states, and under EIB loans, accounting for EUA 390 million. Moreover, within the European Development Fund programme, an additional financial tool was created by the Convention in order to remedy “the harmful effects of the instability of export earnings”<sup>138</sup>, namely represented by the negative effects of natural calamities and of market vagaries, that could have hit the ACP economies. It was the so called “Stabilisation of Exports system” (STABEX). STABEX was a selective support instrument aimed at assuring the stabilization of the receipts the ACP countries collected from the exportation of some agricultural products. Specifically, it covered 49 products of agricultural origin, comprising also coffee and cocoa,<sup>139</sup> selected taking into account different factors, such as the development level of the ACP states and their rate of employment. In accordance with Article 18, an ACP country could benefit from the STABEX system when its earnings of a specific export product were equal or exceeded 7.5% of its total export earnings,<sup>140</sup> and when the actual earnings of the product considered individually were 7.5% below the reference level, below 2.5% in the case of least developed, landlocked or island ACP states (Article 19). STABEX resources covered about 375 million units of account of the fourth EDF.<sup>141</sup> The institutionalization of STABEX was representative of the volatility in

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<sup>136</sup> Carolyn Rhode, *The European Union in the World Community*, Boulder: Lynne Rienner Pub, May 1998, p. 130.

<sup>137</sup> *Ibid*, p.131.

<sup>138</sup> ACP-EEC Convention of Lomé, Title II “Exporting earning of commodities”, Chapter 1 “Stabilization of export earnings”, Article 16.

<sup>139</sup> European Commission Press Release Database, “General observation- the Stabex system” <[http://europa.eu/rapid/press-release\\_ECA-95-2\\_en.htm](http://europa.eu/rapid/press-release_ECA-95-2_en.htm)>. For a detailed list of STABEX products see Annex IV.

<sup>140</sup> Theresa I. Yard, *Promises, Promises: A Critical Analysis of Lome III's Private Investment Provisions*, in *Fordham International Law Journal - Volume 9 - Issue 3*, New York: Fordham University School of Law, 1985, p. 655.

<sup>141</sup> ACP-EEC Convention of Lomé, Title IV “Financial and technical co-operation”, Article 42(1).



commodity prices and of its consequent impact on countries economic plans and policies,<sup>142</sup> in particular on already fragile states as those pertaining to the ACP Group.

A final unique characteristic of the Lomé I Convention related to its structure and management. As a matter of fact, Title VI “Institutions” of the Convention provided for the establishment of a set of joint institutions, namely the Council of Ministers, the Committee of Ambassadors and the Consultative Assembly.<sup>143</sup> Their primary objectives were to ensure a permanent dialogue among the Parties as well as to facilitate the joint administration of the contents of the Agreement.<sup>144</sup>

The First Lomé Convention proved to be an innovative agreement for its time, being influenced by the context in which it was signed, scarred by the Cold War and the debate on a “new international economic order”, but proposing a new model of international cooperation, more inclusive and complete, dealing with economic, financial, politic and development issues.

### 2.2.2. THE SECOND LOMÉ CONVENTION (1979)

The First Lomé Convention was designed to have a five-year term, expiring on 1 March 1980. In concordance with Article 91 of Lomé I, negotiations on the subsequent provisions governing ACP- EEC relations should have started 18 months before the Convention expired. Consequently, consultations started in July 1978, with the ACP countries calling for a renegotiation of the terms of Lomé I, while the EEC opting for its renewal.<sup>145</sup> After more than a year of discussions, a final decision was reached: both the ACP Group of states and the EEC convened to extend the agreement for five years more. On 31 October 1979, the Lomé II Convention was signed in Lomé, the capital of Togo, between 9 EEC members and 58 ACP states, having the ACP Group enlarged of 11 new members. Nevertheless, the ACP countries found necessary to attach four dissenting, unilateral declarations to the body of Lomé II, with the objective of protecting their interest and expressing their position “on Article II of the Convention” (Annex XLI), “on the scheme

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<sup>142</sup> Kenneth A. Reinert, Ramkishen S. Rajan, Amy Joycelyn Glass, Lewis S. Davis, *The Princeton Encyclopedia of the World Economy – Vol. I*, Princeton and Oxford: Princeton University Press, 2009, p. 7.

<sup>143</sup> ACP-EEC Convention of Lomé, Title VI “Institutions”, Article 69.

<sup>144</sup> ECDPM, *Cotonou Infokit - History and Evolution of ACP-EU Cooperation*, Maastricht: ECDPM, 2001, p. 1.

<sup>145</sup> Overseas Development Institute (ODI), *Lomé II - Briefing Paper no. 1*, London: ODI, February 1980, p. 2.

for mineral products” (Annex XLII), “on Article 95 of the Convention” (Annex XLIII), and “on the origin of fishery products” (Annex XLIV).

The Second Lomé Convention did not introduce major changes in ACP-EEC trade relations. For instance, trade provisions of Lomé II remained similar to those agreed in Lomé I, being based on duty-free access and on the elimination of quota restrictions for manufactured and tropical agricultural products originated in the ACP countries.<sup>146</sup>

In the field of aid financing, though, a new tool was introduced, the so called SYSMIN, acronym for System for Mineral Products.<sup>147</sup> The SYSMIN scheme was basically a loan system, analogous to STABEX which remained in place also under Lomé II, but with the difference that it dealt with mining products.<sup>148</sup> Accordingly, it helped to stabilize export earnings originating from mining products and thus to create “a more solid basis for the development of those ACP States whose economies [were] largely dependent on the mining sectors”<sup>149</sup>.

Moreover, the Lomé II Convention provided for EUA 5,227 million of financial resources to sustain financial assistance to the ACP countries. That money were allocated both through EIB loans, for a total of EUA 685 million, and through the establishment of the fifth European Development Fund, which amounted to about EUA 4.5 billion. Of these, about EUA 550 million were to be allocated to the STABEX programme, while about EUA 280 million were to be devoted to the new SYSMIN instrument.<sup>150</sup>

Due to the poor results obtained in private sector industrial investments under Lomé I, and willing to improve the performance of this sector, with the new Convention, the EEC allocated a larger number of financial resources to the CID (Centre for Industrial Development). The ACP countries, on their side, agreed to contribute to the increase of industrial investments providing investors from the EEC member states with investment guarantees on a non-discriminatory basis.<sup>151</sup>

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<sup>146</sup> Overseas Development Institute (ODI), *Lomé II - Briefing Paper no. 1*, London: ODI, February 1980, p. 3.

<sup>147</sup> Carolyn Rhode, *The European Union in the World Community*. Boulder: Lynne Rienner Pub, May 1998, p. 131.

<sup>148</sup> For a detailed list of the SYSMIN products see Annex IV.

<sup>149</sup> ACP-EEC Convention of Lomé II, Title 3 “Mineral products”, Chapter 1 “Project and programme aid”, Article 49.

<sup>150</sup> ACP-EEC Convention of Lomé II, Title VII “Financial and technical co-operation”, Chapter 2, Article 95.

<sup>151</sup> Overseas Development Institute (ODI), *Lomé II - Briefing Paper no. 1*, London: ODI, February 1980, p. 3.

Overall, Lomé II was almost a copy of Lomé I, reproducing most of the features of the first ACP-EEC Convention, above all in trade matters. The few changes it involved were mostly related to an increase in financial aid and funds allocated to the ACP Group through the EDF and the establishment of the SYSMIN instrument. Hence, the Second Lomé Convention proved to be essentially a means for obtaining more financial assistance from the EEC,<sup>152</sup> however without leading to any significant improvements in the social, political and economic sphere of influence.

### 2.2.3. THE THIRD LOMÉ CONVENTION (1984)

Negotiations for a third Convention of Lomé started in October 1983, in a climate of instability and dissatisfaction of the Parties. As a matter of fact, both the ACP Group and the EEC criticized the outcomes resulting from Lomé II. On the one side, the ACP countries complained that financial aid had been unsatisfactory and trade measures had not prevented a decline in ACP exports, from the moment that between the end of the 1970s and the early 1980s the ACP states' "per capita GDP, agricultural output and export volume [were] all down"<sup>153</sup>. The EEC, on its side, admitted the instability and weaknesses of the ACP-EEC Partnership,<sup>154</sup> and recognized that "the Second Development Decade has shown that aid has been inadequate or inappropriate, and that many Third World countries have been unable to derive any real benefit from what they did get [...] regarding the Lomé Convention itself, not all the schemes it has financed have proved to be worthwhile instruments of development"<sup>155</sup>.

Nonetheless, the Third Convention of Lomé was signed in the capital of Togo, on 8 December 1984, between 10 EEC member states, having Greece entered the Community in 1981, and 65 ACP countries.

Lomé III Convention represented a shift in the direction of ACP-EEC relations, moving from direct encouragement of export-led growth and industrial development, to the

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<sup>152</sup> Overseas Development Institute (ODI), *Lomé II - Briefing Paper no. 1*, London: ODI, February 1980, p. 4.

<sup>153</sup> European Commission, *EEC-ACP cooperation. the importance of the forthcoming negotiations - Information Memo P-27/03*, Brussels: European Commission, March 1983.

<sup>154</sup> Theresa I. Yard, *Promises, Promises: A Critical Analysis of Lomé III's Private Investment Provisions*, in *Fordham International Law Journal - Volume 9 - Issue 3*, New York: Fordham University School of Law, 1985, p. 665.

<sup>155</sup> European Commission, *EEC-ACP cooperation. the importance of the forthcoming negotiations - Information Memo P-27/03*, Brussels: European Commission, March 1983.

promotion of self-sufficiency and food security.<sup>156</sup> The broad objective of the Partnership remained the consolidation of ACP-EEC cooperation, in line with Lomé I and Lomé II, but the Third Lomé Convention aimed more specifically at supporting the ACP countries in the achievement of “self-reliant and self-sustained development”<sup>157</sup>, having particular regard to the geographical, social and cultural dimensions of the single states as well as to the most fragile sections of the population.

The willingness of the Parties to tackle the problem of underdevelopment with a broader and deeper approach, moving beyond the consideration of their cooperation relationship only in relation to trade and financial aid, resulted in the inclusion of new provisions on cultural and social cooperation (Title VIII of Lomé III). The presence of new chapters concerning “Cultural and social dimension”, “Operations to enhance the value of human resources” and “Promotion of cultural identities” in the Convention symbolized the beginning of a new era of cooperation as well as a significant supplement to the joint operations performed in all other areas.<sup>158</sup>

A second innovative feature of Lomé III related to the question of human rights and the respect for human dignity, which were explicitly mentioned and treated in the Convention for the first time.<sup>159</sup> As a matter of fact, in Annex I “Joint declaration on Article 4”, the Parties underlined the inalienability of the right of human dignity and protection in both the individual’s own country and in host countries, and they firmly reaffirmed “their obligation and their commitment [...] to fight for the elimination of all forms of discrimination based on ethnic group, origin, race, nationality, colour, sex, language, religion or any other situation”.

Furthermore, with the Lomé III Convention, for the first time the ACP Group and the EEC expressly recognized the importance of the preservation of natural balances as well as the threat that endemic drought and growing desertification represented for the achievement of their Partnership objectives, namely self-sufficiency and food security.<sup>160</sup> Long term

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<sup>156</sup> Kenneth A. Reinert, Ramkishan S. Rajan, Amy Joycelyn Glass, Lewis S. Davis, *The Princeton Encyclopedia of the World Economy – Vol. 1*, Princeton and Oxford: Princeton University Press, 2009, p. 7.

<sup>157</sup> ACP-EEC Convention of Lomé III, Part one “General provisions of ACP-EEC co-operation”, Chapter 1 “Objectives and principles of co-operation”, Article 4.

<sup>158</sup> ACP-EEC, *The main features of Lomé III* in *The Courier* no. 89, Brussels: Commission of the European Communities, January-February 1985, p. 21.

<sup>159</sup> *Ibid*, p. 22.

<sup>160</sup> ACP-EEC Convention of Lomé III, Part Two “The areas of ACP-EEC co-operation”, Title I “Agricultural and rural development and conservation of natural resources”, Chapter 2.

operations, mainly campaigns with specific themes, were the tool identified by the Parties to prevent and face the problems caused by these phenomena.

Cooperation instruments, comprising trade provisions, protocols, financial aid arrangements and assistance, the STABEX scheme and the SYSMIN scheme, were maintained and adapted, in order to meet the new requirements.<sup>161</sup> Funds were allocated to the ACP countries through the establishment of the sixth EDF amounting to ECU 7.4 billion, of which ECU 174,925 million had to be reserved to the stabilization of export earnings, and ECU 415 million had to be used for the stabilization of earnings originating from mining products.<sup>162</sup> This meant a considerable increase in ACP dedicated financial funds, consisting on a sum of money 59% bigger in comparison with that provided under the fifth EDF.<sup>163</sup> Additional ECU 1,000 million were to come from the Bank resources, reaching an overall amount of financial resources of ECU 8,500 million.

The innovations characterizing the Third Lomé Convention involved the institutional ACP-EEC framework, too. For instance, a new parliamentary institution was created, the Joint Assembly, which replaced the old Consultative Assembly. The Joint Assembly was a consultative body composed of an equal number of members of the European Parliament and of parliaments of ACP states. It aimed mainly at strengthen ACP-EEC cooperation through the promotion of a better understanding between the Parties, the awareness of their interdependence and the encouragement of researches and initiatives.<sup>164</sup>

All these new features of the Lomé III Convention, from the focus on cultural cooperation and on human rights, to the emphasis on environmental problems, to the increase of financial funds, to the establishment of the Joint Assembly, were conceived with the objective of achieving a better result and greater effectiveness from the ACP-EEC Partnership.

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<sup>161</sup> ACP-EEC, *The main features of Lomé III in The Courier no. 89*, Brussels: Commission of the European Communities, January-February 1985, p. 21.

<sup>162</sup> ACP-EEC Convention of Lomé III, Title III “Financial and technical co-operation”, Chapter 2 “Financial co-operation”, Section 1 “Financial resources”, Article 194.

<sup>163</sup> ACP-EEC, *The main features of Lomé III in The Courier no. 89*, Brussels: Commission of the European Communities, January-February 1985, p. 22.

<sup>164</sup> ACP-EEC Convention of Lomé III, Part One “General provisions of ACP-EEC co-operation”, Chapter 1 “Institutions”, Article 25.

#### 2.2.4. THE FOURTH LOMÉ CONVENTION (1990)

In October 1988, European and ACP countries began the renegotiations of Lomé III that lasted fourteen months, until 15 December 1989, when the Parties signed the Fourth ACP-EEC Convention of Lomé, in Togo, as had happened for the three previous times. Negotiations were turbulent and marked by disagreements both between and within the EEC and the ACP Group, as well as influenced by the changes occurring in the international context during the 1980s.

As a matter of fact, during the consultations on the future of the Lomé Conventions, a dispute arose among the European members: Northern European states preferred an extension of trade preferences concerning temperate agricultural goods, whereas states of the Southern part of Europe opposed that idea and supported an increase in the volume of aid resources. In July the EEC reached an agreement consisting in the extension to preferences on about 30 products originating in the ACP area, whose volume quota were, in return, restricted.<sup>165</sup>

Internationally, three major events played a role in the shaping of Lomé IV:

- *The enforcement of Structural Adjustment Programmes (SAPs) in many ACP states, in order to remedy to the severe economic difficulties they had been struck by in the 1980s. The SAPs consisted in the acceptance of drastic economic reforms imposed by the International Monetary Fund and the International Bank for Reconstruction and Development (WB) in exchange for financial assistance. It has been calculated that by late 1987, 50 developing countries, of which 29 belonging to the ACP area, benefited from the \$ 15 billion loaned by the IMF and the World Banks, and implemented SAPs policies, with the result of harsh social consequences and instability in these states.*<sup>166</sup>
- *The completion of the European Single Market by 1992, which would create a “fortress of Europe”, as it was referred to, removing internal barriers to trade within the EEC, increasing competitiveness and thus representing a menace to some trade preferences granted to the ACP states.*<sup>167</sup>

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<sup>165</sup> Overseas Developing Institute (ODI), *Negotiating the fourth Lomé Convention - Briefing Paper*, London: ODI, October 1989, p. 2.

<sup>166</sup> Commission of the European Communities - Directorate General for Information, Communication and Culture, *Lomé 1990-2000 Background, innovations, improvements*, Brussels: Commission of the European Communities, March 1990, p. 3.

<sup>167</sup> Overseas Developing Institute (ODI), *Negotiating the fourth Lomé Convention - Briefing Paper*, London: ODI, October 1989, p. 3.

- *The fall of the Berlin Wall, the end of the Cold War and the changes in Eastern Europe*, representing a further threat for the ACP countries. Actually, the ACP Group feared that the EC would have turned its attention towards its Eastern neighbours, providing them with financial aids and pushing aside the ACP-EEC relationship.<sup>168</sup>

The Lomé IV Convention tried to deal with these new assets, offering adjustments, innovations but also continuity with the previous Lomé Conventions.

The *fil rouge* linking Lomé IV with the other ACP-EEC Conventions, and in particular with Lomé III, was the main objective pursued by the Parties in the Partnership, namely the increase in the effectiveness of ACP-EEC cooperation. Similarly, the consolidation of the political dialogue between the contracting Parties became a more and more fundamental aspect of the Partnership, as also the attention paid to rural development and food security.<sup>169</sup>

By contrast, a break with some past features could be identified in the Fourth Lomé Convention, which was immediately evident when considering its duration. As a matter of fact, the life of Lomé IV was doubled, lasting ten years instead of five,<sup>170</sup> while the renewal of the Financial Protocol was planned after a period of five years,<sup>171</sup> as happened with the previous Conventions, in order to allow the necessary adjustments and improvements. The decision of extending the duration of the Convention was meant to avoid the expenditure of time and money of a major renegotiation after five years, but also to guarantee a longer commitment of the Parties involved and provide, thus, for a more secure and confident framework for investors.<sup>172</sup>

For what trade concerns, Lomé IV Convention maintained the principal economic arrangements already in place between the Parties. Nevertheless, to reassure the ACP countries on the priority and significance of their relationship with the EEC, their European partner granted them less strict rules of origins, lowering the percentage of local content

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<sup>168</sup> Boniface Macharia Kinyanjui, *The Cotonou Agreement: A stimulus to African, Caribbean and Pacific (ACP) Economic Renaissance*, Diploma Thesis, Hamburg: Diplomata Verlag GmbH, January 2001, p. 15.

<sup>169</sup> Overseas Developing Institute (ODI), *Negotiating the fourth Lomé Convention - Briefing Paper*, London: ODI, October 1989, p. 2.

<sup>170</sup> Fourth ACP-EEC Convention of Lomé, Part Five "Final provisions", Article 366(1).

<sup>171</sup> Fourth ACP-EEC Convention of Lomé, Financial Protocol, Article 1(1).

<sup>172</sup> Commission of the European Communities - Directorate General for Information, Communication and Culture, *Lomé 1990-2000 Background, innovations, improvements*, Brussels: Commission of the European Communities, March 1990, p. 2.

required in ACP goods from 60% to 45%.<sup>173</sup> Moreover, the already preferential treatment of ACP agricultural and food exports was further enhanced through the reduction of previous restrictions affecting about 40 products. Additional improvements on trade-related matters concerned the special Protocols for beef and veal and for rum, which were modified in order to allow an increased import of these products into the EEC under preferential conditions.<sup>174</sup>

With the intention of ease the burden of the ACP states that were facing social and economic crises resulting from the implementation of SAPs policies, the EEC decided to improve its financial aid to the ACP Group. Accordingly, the overall amount of the EEC financial assistance reached ECU 12,000 million: the seventh EDF, established under Lomé IV Convention, amounted at ECU 10,800 million, of which ECU 1,500 million to be allocated to the STABEX scheme, ECU 480 million reserved for the SYSMIN scheme, and ECU 7,995 million to be used in the form of grants, which included ECU 1,150 million specifically arranged to support the ACP countries that were facing difficulties as a consequence of Structural Adjustment Programmes; while the EIB provided for ECU 1,200 million in the form of loans.<sup>175</sup> The STABEX and SYSMIN instruments were maintained, improved in the quantity of resources at their disposal and strengthened, too.

Last but not least, 1980s was a period characterized, inter alia, by the events and changes in Central and Eastern Europe, as it has already been mentioned. This contributed to develop a “sense of responsibility” within the European Community in relation to the promotion of human rights,<sup>176</sup> which affected the negotiations of the Fourth Lomé Convention. As a result, human rights issues were largely and explicitly tackled in the ACP-EEC Partnership, making Lomé IV the first development agreement including a human rights clause.<sup>177</sup> In fact, Article 5 of the Convention focuses on the individual and on its rights, asserting that man shall be the beneficiary and protagonist of development cooperation strategies, which shall entail the respect for all human rights and shall aim at

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<sup>173</sup> Boniface Macharia Kinyanjui, *The Cotonou Agreement: A stimulus to African, Caribbean and Pacific (ACP) Economic Renaissance*, Diploma Thesis, Hamburg: Diplomica Verlag GmbH, January 2001, p. 15.

<sup>174</sup> Commission of the European Communities - Directorate General for Information, Communication and Culture, *Lomé 1990-2000 Background, innovations, improvements*, Brussels: Commission of the European Communities, March 1990, p. 2.

<sup>175</sup> Fourth ACP-EEC Convention of Lomé, Financial Protocol, Article 1(1).

<sup>176</sup> Elena Fierro, *European Union's Approach to Human Rights Conditionality in Practice*, New York: Martinus Nijhoff Publisher, 2003, p. 73.

<sup>177</sup> ECDPM, *Cotonou Infokit - History and Evolution of ACP-EU Cooperation*, Maastricht: ECDPM, 2001, p. 2.



their promotion. The Parties wanted to make specific reference to “all human rights”, including “non-discriminatory treatment, fundamental human rights, civil and political rights, economic, social and cultural rights”. The ACP Group and the EEC, equally, reaffirmed their commitment to work for the removal of the obstacles that prevented people from fully enjoying their rights, as well as to strive to eradicate all forms of discrimination that an individual could suffer because of its ethnic group or origin, its nationality or race, its sex, religion, colour, language or any other situation.<sup>178</sup>

Hence, the Fourth Convention of Lomé wanted to continue the traditional themes and programmes provided until then, and, in the meantime, to be up-to-date: a difficult, but not impossible, combination.

## REVISION OF THE FOURTH LOMÉ CONVENTION

As it has been said before, unlike the previous Conventions, Lomé IV was designed as a ten-year agreement, lasting from 1990 to 2000; only the Financial Protocol had a five-year term, requiring a mandatory renewal at the end of that time. However, in 1994 the ACP Group and the EEC decided to appeal to Article 366 of Lomé IV, which allowed a possible amendment of the convention after five years from its entry into force.<sup>179</sup>

The revised Lomé IV was finally signed in Mauritius on 4 November 1995. At that time, the ACP Group had increased in number, counting 70 members,<sup>180</sup> while, with the Maastricht Treaty of 1992, the ECC had been renamed as European Community and incorporated into the European Union, comprising now 15 Member States.

The amendments to the Fourth Lomé Convention mainly dealt with political, trade and financial issues. As a matter of fact, the first and major change was the new reference to democratic principles and the rule of law in Article 5 of the Revised Convention. These values were referred to as “essential elements” of the Partnership, meaning that if they were to be contravened by an ACP country, cooperation with the state in question would have been partially or totally suspended, as detailed in Article 366(a).<sup>181</sup>

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<sup>178</sup> Fourth ACP-EEC Convention of Lomé, Part One “General provisions of ACP-EEC cooperation”, Chapter 1 “Objectives and principles of cooperation”, Article 5(2).

<sup>179</sup> Gérard Vernier, *The Lomé IV mid-term review – Main innovations in The Courier no. 155*, Brussels: Commission of the European Economic Communities, January-February 1996, p. 8.

<sup>180</sup> Boniface Macharia Kinyanjui, *The Cotonou Agreement: A stimulus to African, Caribbean and Pacific (ACP) Economic Renaissance*, Diploma Thesis, Hamburg: Diplomata Verlag GmbH, January 2001, p. 16.

<sup>181</sup> *Ibid.*, p. 17.

Furthermore, for the first time since 1975, the debate between the ACP Group and the EC was not centred on the trade preferential system and the rules of origin, which indeed remained predominant in the text of the Convention, but it focused on the factors laying behind economic success and on the means to be employed to achieve such success. The Parties agreed to undertake a series of action to foster trade development, as well as to prioritise nutrition programmes addressed to vulnerable section of the population, and projects for rural development,<sup>182</sup> always applying a sectoral, integrated approach.<sup>183</sup>

To conclude, a Second Financial Protocol was attached to the Revised Lomé IV Convention. Because of the persisting and harshen of the economic crisis in many ACP countries, the EC further increased the resources it delivered to ECU 14,625 million: the BEI provided for ECU 1,658 million, while the eight EDF amounted to ECU 12,967 million, of which ECU 9,592 million in the forms of grants, including ECU 1,400 million to be allocated to structural adjustment support.<sup>184</sup>

With a view to the expiry of Lomé IV, the European Commission started soon to launch a wide and detailed dialogue on the future of ACP-EU relations after 2000, beginning with the “Green Paper on relations between the European Union and the ACP countries on the eve of the 21st century”, presented in November 1996. In this document, the EU offered an overview of the changing global, European and ACP scenarios that inevitably did affect their Partnership. It stressed the necessity of identifying which achievements in the history of ACP-EU cooperation were worth preserving, of redefining and implementing the recently-set initiatives and guidelines, and of finding the option more consistent with their objectives for the future of their relationship.<sup>185</sup>

In 2000, the ten-year term of the Fourth Lomé Convention expired, putting an end to the rounds of Lomé negotiations and leaving the ACP Group and the EC drawing their conclusions on the twenty-five years of Partnership, and reflecting on the future of the ACP-EU relationship.

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<sup>182</sup> Agreement amending the Fourth ACP-EC Convention, Part two “The areas of ACP-EC cooperation”, Article 51(b)(c).

<sup>183</sup> Gérard Vernier, *The Lomé IV mid-term review – Main innovations in The Courier no. 155*, Brussels: Commission of the European Economic Communities, January-February 1996, p. 9.

<sup>184</sup> Agreement amending the Fourth ACP-EC Convention, Second Financial Protocol, Article 1(a).

<sup>185</sup> European Commission, *Green Paper on relations between the European Union and the ACP countries on the eve of the 21st century*, Brussels: European Commission, November 1996, p. VI.

## 2.2.5. RESULTS OF THE LOMÉ CONVENTIONS

For the majority, the year 2000 represented the beginning of the 21<sup>st</sup> century, bearer of hopes and changes for the future, but for the ACP countries and for the EC it was a turning point in the history of their relationship. Despite having been amended and modernized, the Lomé Convention had not been able to fully achieve its objectives and now it was not considered an appealing agreement anymore. On the contrary, it proved to be outdated and unable to move with the times. The worldwide context, for its part, did not facilitate the work of the Lomé Convention.

When it was established in 1975, the Convention of Lomé claimed to establish a new kind of Partnership, based on equality, mutual rights and obligations, which together with the principles of predictability, contractuality and dialogue, contributed to the creation of the “Lomé culture”. In 2000, the ACP-EC Partnership had lost its core values, its soul had been eroded by the passing of the time and the succession of events.<sup>186</sup>

The most tangible evidences of the failed success of the Lomé Convention were the results registered in the trade sector. At a first glance, it could seem that the ACP states had benefited from trade arrangements with the EC, since, from 1975 to 2000, ACP exports to the European Member States increased by an average annual rate of 3%.<sup>187</sup> However, considering the global context in which both the EC and the ACP Group played, the ACP growth in exports showed to lag behind the world total trade growth rate.<sup>188</sup> Accordingly, in the period of the Lomé Conventions (1975-2000), the combined share in global exports of the ACP states declined from 3.2% to 1.3%, leaving these countries in a marginalised position compared to the rest of the world.<sup>189</sup> The situation was even worse when considering the share of ACP exports in European markets, where other countries could benefit from levels of preferential access agreed to them by the EC. In that field, the share of exports of the ACP states decreased from about 8% to about 3% in the same 25-year

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<sup>186</sup> ECDPM, *Beyond Lomé IV - Exploring Options for Future ACP-EU Cooperation*, Maastricht: ECDPM, October 1996, p. 40.

<sup>187</sup> Kalle Laaksonen, Petri Mäki-Fränti and Meri Virolainen, *Lomé Convention, Agriculture and Trade Relations between the EU and the ACP Countries in 1975-2000- Working paper 06/20*, Helsinki: Pellervo Economic Research Institute, 2006, p. 2.

<sup>188</sup> For the period 1975-2000: increase in the value of global trade by 8% a year; increase in the volume for global trade by 5% a year (UN Comtrade Database in *Lomé Convention, Agriculture and Trade Relations between the EU and the ACP Countries in 1975-2000- Working paper 06/20* ).

<sup>189</sup> Kalle Laaksonen, Petri Mäki-Fränti and Meri Virolainen, *Lomé Convention, Agriculture and Trade Relations between the EU and the ACP Countries in 1975-2000- Working paper 06/20*, Helsinki: Pellervo Economic Research Institute, 2006, p. 3.

period<sup>190</sup>. The limited diversification of ACP exports into non-traditional product was one of the causes which contributed to the malfunctioning of Lomé trade arrangements. The ACP Group was in fact unable to take advantage of the trade preferences accorded by the EC, failing to diversify its offer of products and to improve their quality.<sup>191</sup> Other factors inherent to trade provisions and affecting the ACP-EC relationship can be identified in the capacity and organisation of the ACP states: trade and fiscal policies implemented in many countries did not favour the increase of exports; similarly, financial and physical infrastructure were most of the time lacking or unsuitable.<sup>192</sup>

Moreover, the Lomé Conventions themselves presented many weaknesses. Although being the most innovative and detailed framework for North-South development cooperation on paper, in practice the Conventions resulted a complex tool, setting ambitious target to reach and describing long procedures difficult to respect. The consequences were long delays and bureaucratisation in the implementation of projects and practices, but also an overall reduced efficiency of cooperation programmes.<sup>193</sup>

The uncertainty of ACP-EC Partnership after 2000 did not only depend exclusively on the poor result of the 25 years of relationship under the Lomé Conventions. Global events were also important influencing elements to be considered, in particular those happened during the last decade. The ACP Group and the EC, too, they had both undergone many changes since 1975, rethinking also their priorities. Actually, the old historical ties between the European and the ACP countries, perceived as mutual interdependences when Lomé I was signed, weakened with the passing of the years, and in 2000 the ACP Group was not the principal recipient of European geographical, politic and economic policies anymore.<sup>194</sup> The EU was shifting its attentions towards other countries and concentrating its energies into other projects: it negotiated preferential trade agreements with third countries, such as Turkey, South Africa, the Middle East; moreover, it was a founding member of the World Trade Organisation, created in 1995, and, as such, it was lowering its trade barriers in order to favour all the other WTO members and groups playing in the GATT framework.<sup>195</sup> The establishment of the WTO and the entrance into force of its commercial rules determined

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<sup>190</sup> ECDPM, *Cotonou Infokit - From Lomé to Cotonou*, Maastricht: ECDPM, 2001, p. 2.

<sup>191</sup> Ibid.

<sup>192</sup> ECDPM, *Beyond Lomé IV - Exploring Options for Future ACP-EU Cooperation*, Maastricht: ECDPM, October 1996, p. 29.

<sup>193</sup> ECDPM, *Cotonou Infokit - History and Evolution of ACP-EU Cooperation*, Maastricht: ECDPM, 2001, p. 2.

<sup>194</sup> Ibid.

<sup>195</sup> ECDPM, *Cotonou Infokit - From Lomé to Cotonou*, Maastricht: ECDPM, 2001, p. 3.

the incompatibility of some of the basic trade provisions of the Lomé Conventions, which were at that time more difficult to defend. For instance, the favourable access into the European market agreed to the ACP countries was retained unacceptable by other developing states, which appealed to the “most favourite nation” clause. Similarly, the WTO could not accept the non-reciprocity of the trade regime under the Lomé Conventions, since it was contrary to Article 24 of the WTO, which imposes reciprocity in commercial exchanges.<sup>196</sup>

### 2.3. THE COTONOU AGREEMENT AND ITS REVISIONS

Keeping in mind the principles which set the basis for the ACP-EU cooperation and the lessons learnt during the 25 years of Partnership, the ACP Group and the EU decided to negotiate a new agreement that had to be in line with the new global framework of the 21<sup>st</sup> century. On 23 June 2000, they signed the Cotonou Agreement, which ensured the continuation of the ACP-EU relationship for 20 years more, until 2020, and introduced changes and innovations in the Partnership. The Cotonou Agreement has been already largely analysed in the previous chapter, but just to remember the most important improvements it contains, they are: the strengthening of the political dimension and, in particular, of political dialogue; the inclusion of new actors in the Partnership, namely non-state actors, local authorities and the private sector; the implementation of a new trade policy mostly represented by the Economic Partnership Agreements; the adoption of a performance based aid management;<sup>197</sup> and a growth in financial aid set at € 15,200 million (€ 13,500 million from the ninth EDF, plus € 1,700 from the EIB).

Despite having been considered premature, the last ratification of the Cotonou Agreement having started only in 2003,<sup>198</sup> a first review of the Cotonou Agreement took place in 2005, with the main objective of defining a new Financial Protocol. Accordingly, with Decision No. 1/2006 of the ACP-EC Council of Ministers, the Parties approved the provision of financial resources amounting at € 23,966 million, of which € 21,966 under the tenth EDF and € 2,000 million from the EIB, for the period from 2008 to 2013. However, the revision was not limited to the increase in funds. It also amended some parts of the Cotonou

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<sup>196</sup> ECDPM, *Beyond Lomé IV - Exploring Options for Future ACP-EU Cooperation*, Maastricht: ECDPM, October 1996, p. 30.

<sup>197</sup> ECDPM, *Cotonou Infokit - Innovations in the Cotonou Agreement*, Maastricht: ECDPM, 2001, p. 1.

<sup>198</sup> Cotonou working group, *The Review of the Cotonou Agreement: Does the ACP stand to lose again? Cotonou working group briefing paper*, Brussels: CONCORD Cotonou Working Group, July 2004, p. 1.

Agreement in order to provide for more effectiveness and more flexibility both in the financial field, extending the beneficiaries of EU money and giving more power to the Commission in allocating resources; as well as in the political field, strengthening the idea of dialogue as a tool to prevent corruption and human rights violation. Additionally, the Parties' commitment to fight against terrorism and to cooperate in countering the proliferation of weapons of mass destruction were further reiterated and emphasized.<sup>199</sup>

A second revision of the Cotonou Agreement was concluded in March 2010. Since there was no need to negotiate a new Financial Protocol, given that it lasted six years expiring in 2013, this time the revision was exclusively centred on the contents of the Agreement and on their adaptation to the changes that had taken place over the last decade. In particular, increased attention was paid to the interdependence between security and development, highlighting the role of the Parties and of their regional integration in peace building processes and conflict prevention. Another important element introduced with the second revision of the Agreement was the recognition of the serious challenge posed by climate change as a major subject for ACP-EU Partnership. Actually, the Parties agreed to include this issue in their sustainable development policies, as well to collaborate to mitigate the effects of climate change. The review equally regarded the trade chapter: it was amended in order to better reflect the expiry of commercial preferences and the new trade regime, which had entered into force in 2008 and was mainly characterized by the establishment of Economic Partnership Agreements.<sup>200</sup>

Finally, the last Financial Protocol, covering the period from 2014 to 2020, was negotiated in June 2013. It established the eleventh EDF set up at € 30,500 million and, in addition, it provided for about € 2,600 million allocated by the EIB in the form of loans.<sup>201</sup>

The date of the expiring of the Cotonou Agreement is now approaching and the contracting Parties find themselves in the same situation they were in 1975, 1980, 1985 and 1990. They have once again to decide whether to proceed on the same path they have undertaken,

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<sup>199</sup> Selma Roth, *Political Conditionality in European Union Development Assistance*, Brussels: CIFE (Centre International de Formation Européenne), July 2009, p. 48-50.

<sup>200</sup> European Commission - International Cooperation and development, "ACP-The Cotonou Agreement", <[http://ec.europa.eu/europeaid/regions/african-caribbean-and-pacific-acp-region/cotonou-agreement\\_en](http://ec.europa.eu/europeaid/regions/african-caribbean-and-pacific-acp-region/cotonou-agreement_en)>.

<sup>201</sup> Council of the European Union, "*Internal Agreement between the Representatives of the Governments of the Member States of the European Union, meeting within the Council, on the financing of European Union aid under the multiannual financial framework for the period 2014 to 2020, in accordance with the ACP-EU Partnership Agreement, and on the allocation of financial assistance for the Overseas Countries and Territories to which Part Four of the Treaty on the Functioning of the European Union applies*", Luxembourg: EU Publication Office, 24 and 26 June 2013.

to review or modify their relationship in the face of the new expectations of the global system, or, lastly, to put an end to their long Partnership.

## **CHAPTER 3**

### **ACP-EU PARTNERSHIP: WHAT NEXT?**



### **3. THE ACP-EU PARTNERSHIP: WHAT NEXT?**

The ACP-EU Partnership counts on a long-standing history, during which many agreements have been established and a wide range of outcomes has resulted from them. Every time the Yaoundé Conventions or the Lomé Conventions had been renewed, amendments had been necessary to improve their performances and to adapt them to changes. The Cotonou Agreement itself was meant to compensate the shortcomings of its predecessors and to bring some innovations.

Nevertheless, not even the Cotonou Agreement can last forever and provide for always up-to-date regulations. At the time of negotiations, it was decided that the Cotonou Agreement would have lasted twenty years, starting from 1 March 2000.<sup>202</sup> Consequently, it is due to expire on 29 February 2020, a date which is now fast approaching and which has placed the future of ACP-EU relations at the centre of many consultations and working groups organised between and within the contracting Parties, in the last few years.

During the almost two decades since the Agreement's enhancement, situations have evolved, results have come, and interests have changed. For these reasons, when discussing the Post-Cotonou and which could be the best solution for the future of the ACP-EU relationship, various factors have to be considered:

- Firstly, the results of the almost twenty years of Partnership have to be carefully analysed. The attention shall be devoted to the "failure" of the Agreement, so as to improve its effectiveness, but its successful achievements have to be kept in mind as well, since they indicate which is the path to be undertaken.
- Secondly, it has to be reminded that the future of ACP-EU relations is deeply influenced by the changes the Parties have underwent and that have occurred in the global context during the twenty years of their Partnership. New challenges have been posed and the ACP Group and the EU are confronted with different problems and situation compared to those characterizing the year 2000. The emergence of new global players, migration and climate change are only some of them.
- Thirdly, the Parties are now figuring out different perspectives and priorities that they want to pursue in their future history and, as a consequence, their approach to the forthcoming ACP-EU relationship may be different. From the consultations that have

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<sup>202</sup> Cotonou Agreement, Part 6 "Final Provisions", Article 95(1).

taken place until now, it seems that both Parties agree on the fact that the Cotonou Agreement is no more a valid alternative for the ACP-EU Partnership, it has to be reassessed and to be made compliant with today's challenges. At the meantime, the same Partnership appears to be still of prior importance and impossible to be definitely quit at present.

In the next sections an overview of the most influencing issues with regards to the Post-Cotonou will be presented and the future possibilities discussed by the Parties until now will be described.

### 3.1. WEAKNESSES OF THE COTONOU AGREEMENT

Since its signature in 2000 and during the years that followed 'till today, the Cotonou Agreement has proved to be an ambitious plan. Its innovativeness and uniqueness lay in its comprehensive approach: accordingly, it provides for political, economic and financial regulations; it identifies the core values and the fundamental principles at the basis of the ACP-EU Partnership; it defines the common goals to be pursued; and it sets up specific joint institutions, regulating also their functioning. Hence, no shortage of formal rules can be found in its all-inclusive corpus.<sup>203</sup>

Though, despite the completeness and accuracy of the Agreement on paper, the enforcement of its provisions has sometimes turned out to be difficult and far from what had been foreseen. Similarly, examining the concrete results achieved until now, it emerges that they have often been under the expectation line. The implementation gap between the high aspirations of the Cotonou Agreement and the real outcomes is more evident in four areas of the Partnership, namely those related to:

1. EPAs,
2. Development funds,
3. Political dialogue,
4. Institutions created under the Agreement.

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<sup>203</sup> Jean Bossuyt, Niels Keijzer, Afonso Medinilla and Marc De Tollenaere, *The future of ACP-EU relations: A political economy analysis*, Maastricht: ECDPM, January 2016, p. 58.

Each of these issues will be analysed hereafter, with the aim of better understanding why the ACP-EU Partnership has not always worked properly, what errors have been made, and what improvements can be achieved.

### 3.1.1. ECONOMIC PARTNERSHIP AGREEMENTS (EPAs)

Although EPAs were conceived as innovative economic tools, which would have overcome the old non-reciprocal trade agreements finally meeting the requirements of the WTO and contributing in this way to the integration of the ACP Group into the world economy, in practice, many problems and criticism arose when it was time for their negotiations and implementations.

As a matter of fact, the process of negotiations for the reciprocal free trade agreements has been lengthy and complicated: it begun in 2002 and is still ongoing. Neither EPAs success has been astonishing, on the contrary, only a regional comprehensive EPA has been concluded, the one with CARIFORUM, covering both trade elements and the “Singapore issues”<sup>204</sup>.<sup>205</sup> As concerns the other ACP regions, the EPA-SADC entered into force on 10 October 2016, while the signature or ratification process of the remaining African EPAs (EPA-ECOWAS, EPA-ESA, EPA-EAC) is still uncompleted by 2016, and no comprehensive agreement with the Pacific area has yet resulted.

Furthermore, in contrast with the broad nature of CARIFORUM-EPA, the African EPAs are regarded as being slighter in terms of trade economics. Actually, they concern almost exclusively trade in goods, whereas important integration arguments are relegated to rendezvous clauses.<sup>206</sup> For this reason, some prominent people, among which also some members of the European Parliament, have criticized the EPAs, particularly those established between the EU and the African regions, since their chapters lack of specific relevant references to sustainable development. From their point of view, EPAs are not in

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<sup>204</sup> The “Singapore issues” refers to the four issues introduced in the WTO which resulted from the WTO Ministerial Conference held in Singapore on December 1996, namely: investment, competition policy, transparency in government procurement, and trade facilitation. (Source: [https://www.wto.org/english/thewto\\_e/glossary\\_e/singapore\\_issues\\_e.htm](https://www.wto.org/english/thewto_e/glossary_e/singapore_issues_e.htm))

<sup>205</sup> Brenda King, *Opinion of the European Economic and Social Committee on the Future of EU's relations with ACP Group of countries*, Luxembourg: EU Publication Office, 25 May 2016, p. 2.

<sup>206</sup> European Commission, *ACP - EU relations after 2020: Issues for the EU in consultation phase 1- Final Report*, Brussels: European Commission, July 2015, p. 57.

line with the major objective of the Cotonou Agreement and even undermine its aim of promoting a globally integrated development of the ACP Group.<sup>207</sup>

Other critics have advocated that EPAs have proved to be not a powerful instrument to improve business and foster economy in the ACP areas, as the EU has been claiming since the beginning. As a matter of fact, these economic agreements have brought more advantages to the European side than to its counterpart. Firstly, EPAs implementation has favoured the increase of EU exports, especially to the African region, in almost all sectors, allowing, at the same time, a growth in imports of low-priced goods from ACP states to the Old Continent. Secondly, they have facilitated European access to cheap raw materials and energy sources, of which some ACP countries are rich.<sup>208</sup> Therefore, there is a general perception that the actual ACP-EU economic relationship under the EPAs is mainly a sort of neo-colonialism, rather than a real concrete help to sustainable development.

The ACP Group, on its part, has been in some respect penalised by the conclusion of ACP-EU Economic Partnership Agreements. Although the EPAs have fostered African exports, due to the high sanitary and phytosanitary requirements of the EU, this positive trend have concerned only few agricultural sectors (sugar, rice, milk, meat) and the energy sector.<sup>209</sup> Moreover, the beneficiaries of the EPAs have been essentially non-LDCs countries, whereas LDCs states, such as Malawi or Zambia, have seen a reduction in their exports because of the growing competition and rivalry with other middle-income states of the Continent.<sup>210</sup> Since EPAs establishment, African markets have thus suffered from the implementation of economic liberalisation policies, many local industries have been put under strain by competition and regional fragmentation has increased.<sup>211</sup> In the Caribbean area, EPAs negotiations focused governments' attention mostly on trade, excluding from leading discussions some significant issues, for example sustainable development and how to boost the involvement of civil society and private-sector in the Partnership. Equally, the negotiation of the EPA between the EU and the Caribbean compromised the huge efforts

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<sup>207</sup> Brenda King, *Opinion of the European Economic and Social Committee on the Future of EU's relations with ACP Group of countries*, Luxembourg: EU Publication Office, 25 May 2016, p. 3.

<sup>208</sup> Mark Paterson and Kudrat Virk, *The African, Caribbean and Pacific (ACP) Group and the European Union (EU) - Policy Research Seminar Report*, Cape Town: Centre for Conflict Resolution, January 2014, p. 2.

<sup>209</sup> UNECA, *Industrializing through trade - Economic Report on Africa*, Addis Ababa: Economic Commission for Africa, 2015, p. 155.

A graphic showing EU trade with Africa under the Cotonou Agreement is presented in Annex V.

<sup>210</sup> Ibid.

<sup>211</sup> Adekeye Adebajo and Kaye Whiteman, *The EU and Africa from Euroafrique to Afro-europa*, London: Hurst & Co., August 2011, p. 225-226.

of this region to create a single market.<sup>212</sup> Lastly, with regards to the Pacific states, a regional EPA has not been concluded until now, also because of EU position that, instead of pressing for an inclusive regional agreement, encouraged bilateral deals with the individual Pacific countries on key subjects such as fisheries, and avoided discussions on other issues crucial for the area.<sup>213</sup>

As a final point, it has been observed that the establishment of EPAs has partly contributed to the weakening of ACP-EU relations: it enhanced the role of single ACP regional bodies, at the expenses of the ACP Group of states as a whole. In conducting its economic dealings with the ACP Group, the EU has preferred to adopt a functionalistic approach, favouring many separate EPA negotiations with different ACP sub-regional and regional institutions, instead of proposing unified economic agreements for the Group.<sup>214</sup> The result is a shift of powers and management from the ACP Group to ACP regional institutions. While Regional Economic Communities (RECs) have taken the lead in the negotiations for EPAs and have gradually increased their responsibilities in the fields of infrastructure, energy and private sector development,<sup>215</sup> the ACP Group has lost its bargaining power and its role of leadership.

Therefore, although EPAs will be probably maintained in the future ACP-EU Partnership, their conclusion should be accelerated and further implemented, and their provisions should be made more in line with the Parties' objective of promoting sustainable development.

### 3.1.2. DEVELOPMENT FUNDS

Despite during all these years of the ACP-EU Partnership, the EU has remained the main contributor to financial resource for the development of ACP countries, principally managed under the EDF, some challenges have emerged in the administration of this tool ruled by the Cotonou Agreement, as well as in the country-allocation of funds.

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<sup>212</sup> Mark Paterson and Kudrat Virk, *The African, Caribbean and Pacific (ACP) Group and the European Union (EU) - Policy Research Seminar Report*, Cape Town: Centre for Conflict Resolution, January 2014, p. 3.

<sup>213</sup> Ibid, p. 29.

<sup>214</sup> Ibid, p. 14.

<sup>215</sup> ECDPM, *Post Cotonou 2020: Improving or fundamentally rethinking ACP-EU relations?*, Maastricht: ECDPM, 15 April 2015, p. 3.

Actually, the first problem arisen concerns the theoretical, but hardly happening, co-management of the EDF. According to both Parties, the joint administration of the EDF should be one of the key elements representing the spirit of equal partnership promoted by the Cotonou Agreement.<sup>216</sup> In order to pursue this objective, the Agreement provided for the creation of the NAOs, official bodies with the task of coordinating, programming and monitoring the development of projects supported by EU funds. In practice, however, the ACP countries are not entitled to carrying out major financing assignments and are excluded from many decision-making processes regarding the use and share of financial resources, which are conducted exclusively by European actors. As a matter of fact, the total amount of funds to be made available to the ACP Group is determined by the EU Member States, which pay for it, while the European Commission and the EEAS are in charge of settling the different country and sector allocations.<sup>217</sup> Additionally, in those cases in which the NAOs show up to be weak institutions, unable to accomplish their missions, they are overruled by the corresponding EU Delegations, which take the lead and basically substitutes them. As a consequence, the EU and the ACP Group have gradually developed an asymmetric, donor-recipient relation, where the EU largely control the management of the EDF, leaving aside the ACP Group and “betraying” the original assumptions of the Cotonou Agreement.<sup>218</sup>

A second complaint many ACP countries have filed relates to the allocation of EDF national programmable funds (the so-called A envelopes) and, in particular, to the criteria adopted. In compliance with the main objective of eradicating poverty of the Cotonou Agreement, the EU has always sought to support the countries which are most in need, concentrating ever-increasing European financial aids on LDCs and LICs, while penalising MICs and UMICs. Recent EDFs have seen an increment in the share of resources to LDCs and LICs, coinciding with a reduction in the share of aids to upper-middle-income countries. For instance, the share of resources to LDCs and LICs under the 9<sup>th</sup> EDF was 77% of the total amount, growing to 79% under the 10<sup>th</sup> EDF, and reaching 85% under the 11<sup>th</sup> EDF.<sup>219</sup>

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<sup>216</sup> Jean Bossuyt, Niels Keijzer, Afonso Medinilla and Marc De Tollenaere, *The future of ACP-EU relations: A political economy analysis*, Maastricht: ECDPM, January 2016, p. 71.

<sup>217</sup> *Ibid*, p. 51.

<sup>218</sup> *Ibid*, p. 75.

<sup>219</sup> Alisa Herrero and Anna Knoll, with Cecilia Gregersen and Willy Kokolo, *Implementing the Agenda for Change - An independent analysis of the 11th EDF national programming: key findings*, Maastricht: ECDPM, September 2015, p. 3.

See Annex I - Table 4 comparing 11<sup>th</sup> EDF allocation distributions over income groups.

The indicators the EU has made reference to in order to efficiently allocate the resources of the 11<sup>th</sup> EDF are essentially based on the following elements:

- Population size,
- GNI per capita,
- The EVI-Economic Vulnerability Index,
- Human development measures (with the help of the HAI-Human Asset Indicator),
- The World Governance Index.<sup>220</sup>

However, it must be pointed out that the assumption that poor people live to a greater degree in poor countries could not be valid anymore: according to official definitions, it has been observed that 72% of world's poor people are located in MICs, 16% in stable LICs and only 12% in fragile low-income states.<sup>221</sup> Hence, although many ACP countries are classified as middle-income by the EU, they continue to face major inequalities, income disparities and endemic poverty. It is then surprising that 14 of the ACP middle-income states are curiously considered by Brussels as richer than Bulgaria, and 5 of them as richer than Poland and Latvia.<sup>222</sup>

All of this has led many ACP governments to criticise the EU for disregarding middle-income states, and employing a differentiation principle that does not include among its criteria other penalising factors affecting these countries, such as the infrastructural deficits which characterise much of Africa, and the severe geographical handicaps afflicting Pacific islands, elements that should be taken into consideration in the future.

### 3.1.3. POLITICAL DIMENSION

Being one of the three pillars and a unique feature of the Cotonou Agreement, the political dimension plays a fundamental role in the ACP-EU Partnership. Hence, it is not surprising that it is largely addressed by the Agreement, which designs an overall detailed and complete structure dealing with it: Articles 8 and 9 of the Agreement regulate the establishment of a solid political dialogue between the Parties, concerning above all human

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<sup>220</sup> Alisa Herrero and Anna Knoll, with Cecilia Gregersen and Willy Kokolo, *Implementing the Agenda for Change - An independent analysis of the 11th EDF national programming: key findings*, Maastricht: ECDPM, September 2015, p. 14.

<sup>221</sup> Mikaela Gavas, *Reviewing the evidence: how well does the European Development perform?*, London: ODI, 31 January 2012, p. 13.

<sup>222</sup> Mark Paterson and Kudrat Virk, *The African, Caribbean and Pacific (ACP) Group and the European Union (EU) - Policy Research Seminar Report*, Cape Town: Centre for Conflict Resolution, January 2014, p. 14.

rights, democratic principles, good governance and the rule of law; while Article 96 and 97 relate to the application of the non-execution clause. Furthermore, Articles 11 on peace building processes, conflict prevention and resolution, and Article 13 on migration, are linked to political dialogue too.

Nonetheless, when it comes to facts, specific matters and circumstances have hindered the performance of the political dialogue between the Parties as well as the implementation of Article 96.

### **Political dialogue under Article 8**

Whereas on the one hand, it is clear that political dialogue is a core element of the ACP-EU Partnership, on the other hand, this is not reflected on the effective use of Article 8.

Since 2000, only few ACP countries have actually invoked this article and started a dialogue with the EU.<sup>223</sup> The cause of this attitude, belonging to many ACP members, could be traced back to the lack of a conducive framework, which discourage them to initiate the procedure under Article 8,<sup>224</sup> but also to the disbelief in the efficiency and impact of the dialogue itself. Indeed, there is a general perception among the ACP states that the EU has lost its normative credibility and it is thus no longer worth to engage in a bilateral political dialogue.<sup>225</sup>

Another evidence undermining the prominence of this pillar concerns the participants engaged in the actual conduct of the procedure. Although Article 8(7) underlines the importance of including regional organisations, representatives of civil society organisations and of ACP national parliaments in the political dialogue, these actors are in fact rarely involved in such discussions. In the exceptional occasions when it happens, it is not on the initiative of the organisations themselves, but it is the EU who asks for a consultation with them, before and after consultations with the governments.<sup>226</sup>

Finally, there are factors such as the strategic, security or economic interests of the Parties as well as the governments' strength, that deeply influence the normative power of Article 8. Accordingly, within the ACP Group there are many governments, such as the Ethiopian

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<sup>223</sup> Innocent Ejolu, Nicolas Mombrial, Niels Keijzer, Veronika Tyywuschick, Paul Engel, Geert Laporte and James Mackie, *The 2010 Revision and the Future of the Cotonou Partnership Agreement: Report of an informal seminar - Discussion Paper 85*, Maastricht: ECDPM, 2008, p. 4.

<sup>224</sup> Ibid.

<sup>225</sup> Jean Bossuyt, Niels Keijzer, Afonso Medinilla and Marc De Tollenaere, *The future of ACP-EU relations: A political economy analysis*, Maastricht: ECDPM, January 2016, p. 61.

<sup>226</sup> Ibid.



one, that have established an authoritarian regime or that are hostile to open to new ideas, especially when the debate concerns human rights and democracy. Unfortunately, these are also the governments who can count on a strong political position as well as on national and international support, hence, resulting hard for the EU to engage in a successful political dialogue with them.<sup>227</sup> Equally, much of the times “hard” interests and stability of the ACP-EU relationships prevail over the implementation of “soft” powers, showing the weakness of the provisions of the Agreement compared to the real actions and interests.<sup>228</sup>

### **Conditionality under Article 96**

If the effectiveness of the Agreement and, in particular, of its political dimension is analysed, conditionality appears to be a controversial argument, too. When Article 96 was written down, it was meant to be a tool for compelling a Party to “fulfil an obligation stemming from respect of human rights, democratic principles and the rule of law”<sup>229</sup>. By contrast, until now, the use of this article has been reactive rather than proactive, and submitted to the prevailing of different powerful interests.

The first disappointing observation that has to be made relates to the number of cases in which the EU has resorted to Article 96. From 2000 to 2015, it happened only few times, namely seventeen, respectively with Haiti (2000), Fiji (2000), Côte d’Ivoire (2001), Liberia (2001), Zimbabwe (2002), Central African Republic (2003), Guinea-Bissau (2004), Togo (2004), Guinea (2004), Mauritania (2005), Fiji (2007), Mauritania (2008), Guinea (2009), Madagascar (2009), Niger (2009), Guinea-Bissau (2011), and Burundi (2015).<sup>230</sup>

Overall, Article 96 has been applied when the situation of a country had already worsened to the point that it left little room for interpretation and the EU Member States could easily find agreement on what to do.<sup>231</sup> This is the reason why, in many of the above-mentioned cases, almost half of them, Article 96 was invoked because of a *coup d’état*: a *coup d’état* is, indeed, a clear cut-off point which expresses the necessity of some forms of intervention and to which the EU has often reacted taking a united stand and employing the tools at its

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<sup>227</sup> European Commission, *Thematic evaluation of the European Commission support to respect of human rights and fundamental freedoms*, Brussels: European Commission, 2012, p. 49.

<sup>228</sup> Jean Bossuyt, Niels Keijzer, Afonso Medinilla and Marc De Tollenaere, *The future of ACP-EU relations: A political economy analysis*, Maastricht: ECDPM, January 2016, p. 62.

<sup>229</sup> The Cotonou Agreement, Part 6 “Final Provisions”, Article 96(2a).

<sup>230</sup> Jean Bossuyt, Niels Keijzer, Afonso Medinilla and Marc De Tollenaere, *The future of ACP-EU relations: A political economy analysis*, Maastricht: ECDPM, January 2016, Annex 3, p. 131.

<sup>231</sup> Del Biondo Karen, *EU Aid Conditionality in ACP Countries: Explaining Inconsistency in EU Sanctions Practice*, in *Journal of Contemporary European Research. Volume 7. Issue 3*, London: UACES, 2011, p. 381.

disposal, namely the application of the non-execution clauses. Similarly, in several of the other cases, the resorting to Article 96 of the Cotonou Agreement was due to clear evidences attesting irregularities during governmental elections. By contrast, there have been few occasions in which the EU has decided to appeal to Article 96 because of poor levels or a lack of democracy, human rights and rule of law.<sup>232</sup> This could be attributed once again to the difficulties the EU meets in finding a common ground when it comes to determine an objective line which has not to be crossed concerning the violation of human rights and of democratic principles, on penalty of trigger of conditionality.<sup>233</sup> Another reason may reside in the fact that the “shared values” referred to by the Cotonou Agreement are not necessarily always shared by all the ACP countries, shifting the reason of the dispute to a more ideological level.<sup>234</sup>

Recent analysis have shown that, along with the seventeen cases above-mentioned, there have been a number of “non-cases”, meaning all the other occasions in which the ACP states had to face an interrupted or interregnum governance, or in which irregularities during elections occurred, but the EU decided not to intervene or, if it did, its response was limited to “rhetorical action”<sup>235</sup>. This was the case, for example, of Chad in 2005/2006, Nigeria in 2007 and Ethiopia in 2010.<sup>236</sup>

Studying different “non-cases”, research have identified three main dynamics that influence EU decision to invoke Article 96:

- a) Historical ties;
- b) Security and/or energy interests;
- c) Political pragmatism.

*a) Historical ties.* European Member States which had had a colonial relationship and have thus maintained strong links with one or more ACP countries so far, have often interfered with EU decisions of implementing positive or negative conditionality measures. Willing to preserve their sphere of influence, they have actually been able to shield the ACP states

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<sup>232</sup> See Annex VI for an overview of the consultation procedures under art. 96 from 2000 to 2015.

<sup>233</sup> Del Biondo Karen , *EU Aid Conditionality in ACP Countries: Explaining Inconsistency in EU Sanctions Practice*, in *Journal of Contemporary European Research. Volume 7. Issue 3.*, London: UACES, 2011, p. 381.

<sup>234</sup> Jean Bossuyt, Niels Keijzer, Afonso Medinilla and Marc De Tollenaere, *The future of ACP-EU relations: A political economy analysis*, Maastricht: ECDPM, January 2016, p. 70.

<sup>235</sup> Del Biondo Karen, *Donor Interests or Development Performance? Explaining Sanctions in EU Democracy Promotion in sub-Saharan Africa* in *World Development Vol. XX*, Amsterdam: Elsevier B.V., 2014, p. 4.

<sup>236</sup> Ibid.

from conditionality. A case in point is France that have succeeded more than once to protect its former colonies and, above all, its interests from Article 96: Chad, where a French military basis is hosted, and Ivory Coast, which represents crucial historical interests for France, can be two good examples.<sup>237</sup>

b) *Security and/or energy interests*. Similarly, in the event that a conflict between security and democracy values exists, also the whole of the EU has usually preferred to give priority to security matters, limiting or avoiding to invoke Article 96.<sup>238</sup> In this case, European interests involved are mainly related to military-strategic issues, such as in Ethiopia and Kenya, key countries in the Global War on Terrorism; or they may concern energy matters, as when it comes to major oil-exporting states such as Nigeria.<sup>239</sup>

c) *Political pragmatism*. Learning from the past, the EU has understood that despite its commitment, positive results from consultations under Article 96 are obtained according to the partner-country willingness to engage, and to the active response from the international community.<sup>240</sup> Thus, it has preferred to adopt a highly pragmatic approach, invoking Article 96 only when it believed that there was a reasonable chance of success.

Therefore, during this fifteen-year period the use of Article 96 has shown to be almost inconsistent, due to the success rate in the countries where consultations were started which has proved to be very low; as well as easily manageable by those countries that want to preserve their interests and can either prevent conditionality or compensate to it by increasing their bilateral support. In the post-2020, a more effective political dialogue between the Parties should be established, and appropriate measures should be set and applied every time it will be necessary.

### 3.1.4. FUNCTIONING OF ACP-EU RELATED INSTITUTIONS

In 2000, the Parties, conscious of the ambition and complexity of the Cotonou Agreement, provided for the creation of several ACP-EU joint institutions that should have properly

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<sup>237</sup> Del Biondo Karen, *Donor Interests or Development Performance? Explaining Sanctions in EU Democracy Promotion in sub-Saharan Africa* in *World Development Vol. XX*, Amsterdam: Elsevier B.V., 2014, p. 6.

<sup>238</sup> Del Biondo Karen, *EU Aid Conditionality in ACP Countries: Explaining Inconsistency in EU Sanctions Practice*, in *Journal of Contemporary European Research. Volume 7. Issue 3*, London: UACES, 2011, p. 382.

<sup>239</sup> Jean Bossuyt, Niels Keijzer, Afonso Medinilla and Marc De Tollenaere, *The future of ACP-EU relations: A political economy analysis*, Maastricht: ECDPM, January 2016, p. 65.

<sup>240</sup> *Ibid*, p. 63.

managed their Partnership, and added new tasks to the already existing ACP or EU bodies. Together, they should have aimed at granting a better functioning of the ACP-EU Partnership, as well as at constantly monitoring the situation and allowing an effective political dialogue. Anyway, have these bodies been really efficient and have they achieved the objectives for which they have been created? The answer is not completely positive.

Actually, in recent discussions on the future of ACP-EU relations, it has been underlined with disappointment how the joint institutions have generally “not performed to the best of their capacity”, making nowadays’ ACP-EU structure and cooperation weaker than in the past.<sup>241</sup> The responsibility of this has to be found mostly on the Parties’ attitude and on their inclination to take unilateral decisions, especially on the EU side.<sup>242</sup> Indeed, both the EU and the ACP Group have the tendency to reach important conclusions outside the framework of ACP-EU joint institutions, hence undermining the decisional power of these bodies and making harder to work together on common issues.<sup>243</sup>

An overview of the major problems that need to be solved and that have arisen within ACP-EU joint institutions and some of the bodies of the Parties will be presented in this section.

### **Joint Council of Ministers and Committee of Ambassadors**

Because of the vital tasks assigned to it by the Cotonou Agreement (decision-making power and conduction of the political dialogue), the Joint Council of Ministers is one of the most important bodies of ACP-EU relations. Despite the significant role it plays in the Partnership, few concrete results have been produced from its meetings, and the attendance of the members of both sides has been low and low-level.<sup>244</sup>

With regards to the attendance and representation of the Parties, the participation records for the meetings of the Joint Council of Ministers present a really poor and discouraging image. For instance, looking at two recent summits, the participants at the Council of Ministers in Nairobi on 20 June 2014 were 28 for the ACP side and 1 for the European side

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<sup>241</sup> European Commission, *ACP - EU relations after 2020: Issues for the EU in consultation phase 1- Final Report*, Brussels: European Commission, July 2015, p. 33.

<sup>242</sup> Jean Bossuyt, Niels Keijzer, Afonso Medinilla and Marc De Tollenaere, *The future of ACP-EU relations: A political economy analysis*, Maastricht: ECDPM, January 2016, p. 78.

<sup>243</sup> European Commission, *ACP - EU relations after 2020: Issues for the EU in consultation phase 1- Final Report*, Brussels: European Commission, July 2015, p. 33.

<sup>244</sup> European Parliament, *The future of ACP-EU relations beyond 2020 – European Parliament resolution of 4 October 2016 on the future of ACP-EU relations beyond 2020*, Strasbourg: European Parliament, October 2016.

(namely the representative of the EU presidency), while the number of ministers attending the ACP-EU Council in Brussels on 25 May 2015 was even lower, with 22 ACP ministers and the only representative of the European presidency for the EU.<sup>245</sup>

Due to the low attendance to the Joint Council of Ministers, as well as to the few opportunities of meeting, mainly once a year, relevant political decisions are rarely taken within this institutional body. Just to give an example, the adoption of the “European Union Emergency Trust Fund for stability and to address the root causes of irregular migration and displaced person in Africa” of 2015 was approved exclusively by the EU without even consulting or involving the ACP Group in the decision-making process, from the moment that the first occasion of discussion would have been after months.<sup>246</sup>

Similar problems have been observed also in the case of the Committee of Ambassadors, where the involvement of authorities to meetings has showed not to be greater than that recorded for the ACP-EU Council. Moreover, during the summits of the Committee, the EU is usually represented by diplomats of the ACP Council Working Party instead of European ambassadors. The overall result is that, most of the times, the Committee of Ambassadors fails to carry out its tasks, among which the preparation of the meetings of the Council of Ministers, and consequently further compromising the work of this last one.

### **Joint Parliamentary Assembly**

The Joint Parliamentary Assembly is a unique institution, “being the only multilateral inter-parliamentary assembly set up under an international agreement”<sup>247</sup>. Many of the fact-finding works and observation missions that it has provided since 2000 have proved to be useful for the ACP-EU Partnership.<sup>248</sup> Nevertheless, the role it has played until now has been really limited, mainly because it is a consultative body and thus does not have any legislative power.

Furthermore, as for the other institutional bodies above-mentioned, the lack of interest of the Parties in participating to the JPA meetings, in particular from the EU side, have strongly affected its work. Accordingly, in a report by the European Parliament, it raised

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<sup>245</sup> Jean Bossuyt, Niels Keijzer, Afonso Medinilla and Marc De Tollenaere, *The future of ACP-EU relations: A political economy analysis*, Maastricht: ECDPM, January 2016, p. 79.

<sup>246</sup> Ibid.

<sup>247</sup> Goerens Charles, *Report on the work of the ACP-EU Joint Parliamentary Assembly*, Strasbourg: European Parliament, 2015, p. 5.

<sup>248</sup> European Commission, *ACP - EU relations after 2020: Issues for the EU in consultation phase 1- Final Report*, Brussels: European Commission, July 2015, p. 33.

awareness on the “unequal participation between EU members and ACP members”, regretting “the declining participation of EP members, particularly during the voting sessions”<sup>249</sup>. In the same official document, the European Parliament expressed its disappointment in noting “the lack of interest shown by some EU Member States having held, or expected to hold in the future, the EU Council Presidency by rotation, in hosting the JPA sessions”<sup>250</sup>.

### **Centre for the Development of Enterprises**

Even if the Centre for the Development of Enterprises should have fostered and increased the competitiveness between the ACP Group and the EU businesses, in practice, it was not able to accomplish its tasks. It failed to act as a bridge connecting public and private enterprises with the higher institutional framework of the ACP-EU Partnership.

On the one side, business actors did not make the best use of the CDE: they did not succeeded in fully understanding the purpose and potential of this tool, which appeared to them like an impenetrable “black box”<sup>251</sup>. On the other side, the CDE itself presented various problems: it lacked of financial resources to fund the development of private sector projects, with half of the direct grants to ACP enterprises not exceeding € 5,000 for the period 2000-2010;<sup>252</sup> and its complex and ambiguous governance system often resulted in partial, delayed and inadequate responses to real needs.<sup>253</sup>

Consequently, in 2013 the Parties jointly agreed that the CDE would have been gradually closed down.<sup>254</sup>

### **ACP Secretariat**

Although being an ACP institution, the ACP Secretariat is largely involved in the ACP-EU Partnership and it is highly supported by the EU.

However, there is a general perception from the European side that the ACP Secretariat has not had a relevant impact on ACP-EU relations outside Brussels, and that it mostly

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<sup>249</sup> Goerens Charles, *Report on the work of the ACP-EU Joint Parliamentary Assembly*, Strasbourg: European Parliament, 2015, p. 6.

<sup>250</sup> Ibid.

<sup>251</sup> European Commission, *ACP - EU relations after 2020: Issues for the EU in consultation phase 1- Final Report*, Brussels, European Commission, July 2015, p. 35.

<sup>252</sup> Jean Bossuyt, Niels Keijzer, Afonso Medinilla and Marc De Tollenaere, *The future of ACP-EU relations: A political economy analysis*, Maastricht: ECDPM, January 2016, p. 81.

<sup>253</sup> CDE, *Proposed transformation of the CDE into a specialised and decentralised tool of promotion of ACP SMEs, investments & EU-ACP business partnership*, Brussels: CDE, June 2013.

<sup>254</sup> Jean Bossuyt, Niels Keijzer, Afonso Medinilla and Marc De Tollenaere, *The future of ACP-EU relations: A political economy analysis*, Maastricht: ECDPM, January 2016, p. 81.

depends on European contributions.<sup>255</sup> Accordingly, it has been calculated that approximately 50% of the running costs of the ACP Secretariat are financed by the EU through the EDF, while a “number of ACP Member States are not paying their full membership”<sup>256</sup>. In 2015, for example, the number of ACP countries owing arrears in the payment for their contribution to the Secretariat amounted to 43 states of the Group, which consisted of about 54%.<sup>257</sup>

These problems are reflected not only on the internal management and functioning of the ACP Group, but also on the ACP-EU Partnership, from the moment that the ACP Secretariat closely works with the EU and with the other joint institutions under the Cotonou Agreement.

### 3.2. CHANGES IN THE GLOBAL CONTEXT

It cannot be ignored that, since 2000, the whole world has underwent many changes. These do not refer exclusively to matters external to the ACP-EU Partnership, but they include also an evolution of the EU and of the ACP Group themselves, which may have modified their characteristics as well as their priorities and perspectives.

With the aim of adapting the contents of the Cotonou Agreement to the existing and upcoming challenges, the Parties have already revised its statements twice, in 2005 and in 2010. Nonetheless, further improvements can be made in this regard. In particular, during the ongoing discussions concerning the future of ACP-EU relations, the worldwide evolutionary context should be always seriously taken into consideration. Five key changes can be identified, each of them having different profound implications on the ACP-EU Partnership. They are:

1. New geopolitical realities,
2. Globalisation and regionalisation,
3. Changes within the ACP Group and the EU,

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<sup>255</sup> Tina Tindemans and Dirk Brems, *Briefing note: Post-Cotonou: Preliminary positions of EU Member States*, Maastricht: ECDPM, February 2016, p. 6.

<sup>256</sup> European Parliament, *The future of ACP-EU relations beyond 2020 – European Parliament resolution of 4 October 2016 on the future of ACP-EU relations beyond 2020*, Strasbourg: European Parliament, October 2016.

<sup>257</sup> Jean Bossuyt, Niels Keijzer, Afonso Medinilla and Marc De Tollenaere, *The future of ACP-EU relations: A political economy analysis*, Maastricht: ECDPM, January 2016, Annex 5, p. 128.

4. New security issues,
5. Agenda 2030 and the Sustainable Development Goals (SDGs).

The next sections of this chapter want to analyse the above mentioned topics separately, in order to explain how they have evolved from the signature of the Cotonou Agreement and how they affect today debates on the Post-Cotonou.

### 3.2.1. NEW GEOPOLITICAL REALITIES

In recent times, the international framework has increasingly diversified and various new global actors now play their game in a multipolar world. One of the most evident phenomenon characterising the international economic and political system is the rise of “big players”, notably Brazil, Russia, India, China and South Africa (BRICS),<sup>258</sup> and the interrelated strengthening of South-South and triangular cooperation.<sup>259</sup> Hence, the first fundamental change both the ACP Group and the EU have to face and to assess in deciding the next steps for their relationship is the growing empowerment of emerging economies at the global level, which has inevitably a deep impact on the state of play of the ACP-EU Partnership.

Although the EU remains the main partner of the ACP states, in particular with respect to trade and funds allocation (EPAs are a cornerstone of North-South cooperation, along with the provision of resources under the EDF), investments and commerce between the ACP Group and the BRICS have substantially heighten. For instance, in 2009, BRICS countries together (not including South Africa) had come to represent the second trading partner of Africa after the EU;<sup>260</sup> while during the whole first decade of implementation of the Cotonou Agreement, African exports to BRICS states have almost doubled rising from

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<sup>258</sup> European Commission, *ACP - EU relations after 2020: Issues for the EU in consultation phase 1 - Final Report*, Brussels: European Commission, July 2015, p. 19.

<sup>259</sup> According to the World Health Organization (WHO), South-South cooperation “refers to the exchange of expertise between actors (governments, organizations and individuals) in developing countries”, while triangular cooperation “refers to development partners, countries, and international organizations providing financial or technical support to facilitate development activities between 2 developing countries”. (<http://www.who.int/country-cooperation/what-who-does/south-south/en/>).

<sup>260</sup> UN Economic and Social Council, *Report on Africa's International Trade*, New York: ECOSOC, 5 November 2015, p. 10.



10% to 24% of the total share, that means a growth from \$11.4 billion to \$117.6 billion in the period 2000-2011,<sup>261</sup> and their trade is likely to increase even further.

Moreover, the ACP states have often considered the enhanced role of emerging countries in their policies as a positive influence, not only for economic interests, but also ideologically, since BRICS can provide them a valid alternative to the EU, whose involvement in ACP businesses is sometimes still perceived as a sort of colonial power.<sup>262</sup> BRICS states, on their side, have taken advantage of their position with respect to the ACP Group, reminding to the ACP countries the past South-South solidarity, and highlighting the importance they give to values such as independence, equality and partnership.<sup>263</sup>

Given BRICS economic strategies, especially the Chinese one, Africa proves to be the area of most relevance for emergent states. Due to its great offer of primary products, Africa is an attractive area for all those developing countries who need raw material to preserve or foster a high level of industrialisation: from the African continent, indeed, BRICS countries import mainly fuels, with the exception of Russia, importing above all manufactured goods, while their exports to the region consists mostly on finished products.<sup>264</sup> The closer ties between BRICS and Africa are reflected also in the many bilateral summit diplomacy some of these countries have organized: every three years since 2000 the Forum on China-Africa Cooperation (FOCAC) is convened, in April 2008 the first India-Africa Forum summit was held in New Delhi and it became a triennial process at the second meeting of May 2011 in Addis Ababa. Furthermore, Brazil has started transfer of research and technology to some convened African countries concerning high-value crops with the objective of connecting to global value chains.<sup>265</sup>

In the Caribbean region, instead, despite the intensification of their economic relations, emerging players have performed relatively low levels of exports and investments. As a matter of fact, BRICS, in particular Brazil, China, and India, as well as Venezuela and Cuba are relevant actors in the Caribbean market, but they are still overcome by the EU,

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<sup>261</sup> United Nations Economic Commission for Africa, *Africa-BRICS Cooperation: Implications for Growth, Employment and Structural Transformation, in Africa*, Addis Ababa: UNECA, 2013, p. 10.

<sup>262</sup> Geert Laporte, *What future for the ACP and the Cotonou Agreement? Preparing for the next steps in the debate - Briefing Note*, Maastricht: ECDPM, April 2012, p. 2.

<sup>263</sup> Mark Paterson and Kudrat Virk, *The African, Caribbean and Pacific (ACP) Group and the European Union (EU) - Policy Research Seminar Report*, Cape Town: Centre for Conflict Resolution, January 2014, p. 31.

<sup>264</sup> UN Economic and Social Council, *Report on Africa's International Trade*, New York: ECOSOC, 5 November 2015, p. 10.

<sup>265</sup> Ibid.

which continue to be economically predominant, being a source of funds for sustainable development and humanitarian aid, but also a geo-political ally counterbalancing US weight in the region.<sup>266</sup> However, BRICS states have not to be underestimated, China is already promoting its attractive non-interference policy, even if the lack of a cohesive force in the BRICS group and of programmes fostering the respect of human rights or other principles still penalise those states.<sup>267</sup>

BRICS countries are also looking with interest at the Pacific area: Chinese investments in fisheries, trade and natural resources have substantially increased, and Chinese migration has become an issue of major concern in the last decade; Russia has clearly showed its military and geostrategic interests in the Pacific region to challenge European and US position in the same area; finally, India and Brazil have strengthen their presence in some Pacific states such as Vanuatu and Fiji.<sup>268</sup> Nevertheless, the influence of Australia and New Zealand still remain the most incisive in the region.

However, it has to be underlined that the behaviour of emerging economies towards the ACP Group has received also some critics. First of all because BRICS, and particularly China and India, are considered “resource-hungry giants”, being among the world’s larger energy consumers, and thus interested only in exploiting the natural resources Africa owns, without fostering the continent’s economic diversification or really supporting social causes such as the respect of human rights, democracy and equality between the Parties.<sup>269</sup> Another element of concern are political and geo-strategical self-interests both Parties are hiding behind their economic partnership: there are doubts about some BRICS assisting, directly or indirectly, undemocratic governments in Africa,<sup>270</sup> while India, Brazil and South Africa induce ACP countries to support their request for permanent membership in the UN Security Council.

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<sup>266</sup> Annita Montoute, Quinnelle Kangalee and Zahra Alleyne, *Workshop Report - The Joint Caribbean EU Strategy Reflections and Analysis*, Maastricht: ECDPM, p. 2.

<sup>267</sup> Ibid.

<sup>268</sup> Geert Laporte, Gemma Piñol Puig, *Reinventing Pacific-EU relations: with or without the ACP? Briefing Note n. 56*, Maastricht: ECDPM, October 2013, p. 5.

<sup>269</sup> Mark Paterson and Kudrat Virk, *The African, Caribbean and Pacific (ACP) Group and the European Union (EU) - Policy Research Seminar Report*, Cape Town: Centre for Conflict Resolution, January 2014, p. 31.

<sup>270</sup> Geert Laporte, *What future for the ACP and the Cotonou Agreement? Preparing for the next steps in the debate - Briefing Note*, Maastricht: ECDPM, April 2012, p. 2.

### 3.2.2. GLOBALISATION AND REGIONALISATION

Considering the evolution of the ACP-EU Partnership, it is evident that the interests and strategies of both Parties have been driven more and more by two diverging and, at the same time, complementary forces: globalisation and regionalisation.

On the one side, the EU and the ACP Group have tried to increase their influence on today's multipolar international framework, aiming at becoming active "global players"<sup>271</sup>. The EU has developed a broad and varied external action plan, always guided by the principles expressed in the Lisbon Treaty, "democracy, the rule of law, the universality and indivisibility of human rights and fundamental freedoms, respect for human dignity, the principles of equality and solidarity, and respect for the principles of the United Nations Charter and international law". Accordingly, in 2011, it launched a dedicated body, the European External Action Service, with the objective of programming and implementing a number of worldwide cooperation strategies, among which there are for example the Eastern Partnership, between the EU and 6 eastern European countries, and the European Neighbourhood Policy (ENP), linking the EU with its southern and eastern neighbours.<sup>272</sup> Moreover, in order to deepen and strengthen economic and political ties between the EU and a number of identified partner states, it has started and consolidated "strategic Partnership", at present being established with Brazil, Canada, China, India, Japan, Mexico, Russia, South Africa, South Korea and the United States.<sup>273</sup>

Similarly, the ACP Group has attempted to become an international political force, in particular participating actively in the WTO, where the Group has been able to defend their interests in specific matters.<sup>274</sup> For instance, during the 9<sup>th</sup> WTO Ministerial Conference held in Bali from 3 to 7 December, the ACP Group of states played an important role in the conclusion of a Trade Facilitation Agreement: it made possible to find a consensus with all WTO member states and designated concrete text proposals, negotiating a new strategy for Special and Differential Treatment.<sup>275</sup>

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<sup>271</sup> Jean Bossuyt, Niels Keijzer, Afonso Medinilla and Marc De Tollenaere, *The future of ACP-EU relations: A political economy analysis*, Maastricht: ECDPM, January 2016, p. 4.

<sup>272</sup> EEAS (European Union External Action Service), <[https://eeas.europa.eu/headquarters/headquarters-homepage/area/geo\\_en](https://eeas.europa.eu/headquarters/headquarters-homepage/area/geo_en)>.

<sup>273</sup> ESPO (European Strategic Partnership Observatory), <<http://strategicpartnerships.eu/pays/eu-united-states/>>.

<sup>274</sup> Jean Bossuyt, Niels Keijzer, Afonso Medinilla and Marc De Tollenaere, *The future of ACP-EU relations: A political economy analysis*, Maastricht: ECDPM, January 2016, p. 32.

<sup>275</sup> *Ibid*, p. 33.

On the other side, within this strive for a globalized strategy, the EU and the ACP Group have also fostered their regional approaches. Although covering a great number of world countries, the EU external action has indeed been characterised by the establishment of specific regional partnership agreements with one single state or with small groups of states, as those described in the previous paragraph. Regionalisation has then directly affected the ACP Group, which started to develop intra-ACP cooperation between its areas: the Caribbean, the Pacific, West, East and Southern Africa.<sup>276</sup> Furthermore, the institutionalisation of the African Union (AU), comprising also Northern African states with the exception of Morocco, in 1999, and its enlargement during these almost two decades are a clear sign of African willingness to enhance its role as a continent in the global framework.<sup>277</sup>

The EU, the main Partner of the ACP countries, has firmly supported the phenomenon of regionalisation that has recently concerned the ACP Group, considering it an opportunity to implement more specific policies that are also geographically focused. The result has been the conclusion of several complementary agreements between the EU and the ACP regions and sub-regions, addressing both cooperation and commercial and security issues. Accordingly, the EU Strategy on the Pacific was established in 2006, the Joint Africa-EU Strategy (JAES) in 2007, and the Joint Caribbean-EU Strategy (JCES) in 2012, with the aim of improving the political dialogue between the EU and its counterparts, as well as to intensify their economic and development relations.<sup>278</sup> In the field of trade, European preference to deal with regional groups has been further highlighted, since EPAs have been negotiated separately with the Caribbean area and with the several African sub-regions (ECOWAS, EAC, SADC).

The process of regionalisation that affected the ACP Group is not always looked favourably, though, and sometimes it gives rise to a feeling of resentment among the ACP Member States which perceive it as a step towards a further increased competition of their economies. This refers, in particular, to the greater empowerment of the AU that has become the favourite economic partner of many global players, as well of the EU, which

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<sup>276</sup> Advisory Council on International Affairs (AIV), *ACP-EU Cooperation after 2020: Towards a new Partnership?*, The Hague (NL): AIV, March 2015, p. 12.

<sup>277</sup> Ibid, p. 13.

<sup>278</sup> Jean Bossuyt, Niels Keijzer, Afonso Medinilla and Marc De Tollenaere, *The future of ACP-EU relations: A political economy analysis*, Maastricht: ECDPM, January 2016, p. 49.

has actively sponsored the creation and expansion of AU's institutions such as the Pan-African Parliament and the African Commission.<sup>279</sup>

Therefore, ACP-EU Partnership is directly involved in the two-faced process of globalisation and regionalisation, and the result of negotiations on the Post-Cotonou will inevitably depend also from the importance that the two Parties will give to global and regional approaches, considering which are the improvements as well as the weaknesses that regionalisation and globalisation could imply.

### 3.2.3. CHANGES WITHIN THE ACP GROUP AND THE EU

Discussions on ACP-EU relations after 2020 are not only affected by the evolution of external contextual processes, but also by those changes closely related to the Parties themselves. The ACP Group and the EU are very different to what they were when they signed the Cotonou Agreement in 2000.

Both Parties have considerably grown in number, the EU expanded from 15 to 28 states, whereas the ACP Group added 4 new members. Considered together, they account for the majority of the countries within the UN (105 out of 193 members), and disposing, thus, of a great bargaining power and influence in the framework of the United Nations.<sup>280</sup> However, these enlargements, especially the European one, have not brought only positive outcomes: European priorities have somewhat shifted, from the moment that the political interests of the former EU15, deriving from their historical links with the ACP states, are not anymore a main concern for EU28.<sup>281</sup>

With reference to population, in accordance with the data collected by the World Bank, in the ACP area lives over 1 billion people, while EU citizens amount to some 5 million. Totally, the ACP Group and the EU cover some 1.5 billion people, which is about 20 percent of the entire world's population, being about 7,347 million.<sup>282</sup> However, it has to be noted that since 2000 the Parties have experienced different trends in population growth that are likely to be further delineated in the years to come and that affect the two areas

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<sup>279</sup> Advisory Council on International Affairs (AIV), *ACP-EU Cooperation after 2020: Towards a new Partnership?*, The Hague (NL): AIV, March 2015, p. 13.

<sup>280</sup> The Cook Island and Niue are not UN members but they are still part of some UN specialised agencies.

<sup>281</sup> Tina Tindemans and Dirk Brems, *Post-Cotonou: Preliminary positions of EU Member States – Briefing Note no. 87*, Maastricht: ECDPM, February 2016, p. 3.

<sup>282</sup> Data of 2015, World bank, <<http://databank.worldbank.org/data/reports.aspx?source=2&series=SP.POP.GROW&country=#>>.

with diverse economic, political and social results. Actually, during the last fifteen years, inhabitants of the ACP Group have undergone a significant increase in number, shifting from some 704 million people in 2000 to over 1 billion in 2015. By contrast, the EU area has proved to be less demographically dynamic, with a difference of “only” around 22 million people between the estimated population of 2000 (some 487 million people) and 2015 data (counting nearly 509 million European people),<sup>283</sup> and future prospects of population growth are not encouraging for EU countries (annual population growth in 2014 and 2015 was respectively of 0.1% and 0.3%). Statistics foresee that in the medium variant (2015-2050) EU population trend will not be reverted, on the contrary, it is possible that the number of European people will slowly decrease; whereas in the African, Caribbean and Pacific states population will continue to grow substantially.<sup>284</sup> Increasingly differences can be found also in fertility rates, higher for the ACP countries and lower for the EU ones, as well as in the larger percentage of young people, characterising the ACP states, in contrast with the older population of the EU.<sup>285</sup> All these elements exacerbate a series of problems already existing in the ACP area, such as undernutrition and malnutrition, education, employment, migration, and civil conflicts.

Economically, in those 15 years, the EU and the ACP Group have faced different scenarios, too. The disparities in the degree of economic development of the two Parties are evident and have been extensively analysed. Nevertheless, important events of the 21<sup>st</sup> century have influenced the European and ACP economic situation, turning the tables. In particular, the global financial crisis of 2008 had a severe impact on both the ACP and EU economies. The most affected countries were definitely developed states dominating the international financial institutions, and, among these, the EU Member States resulted to be especially hard hit. In 2009, the EU slipped into recession, trade decreased of 30% and European banks had to handle big losses.<sup>286</sup> The consequences were the rise of national fiscal debts in many EU countries, some lasting also nowadays, growing poverty rates, and a really slow recover of European economy which is still ongoing. The ACP countries, on the other hand, although having been equally affected by the 2008 crisis and having undergone a decrease in their annual economic growth, they suffered less for the effects of

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<sup>283</sup> Data of 2015, World bank, <<http://databank.worldbank.org/data/reports.aspx?source=2&series=SP.POP.GROW&country=>>.

<sup>284</sup> UN, *World Population Prospects - Data Booklet (2015 revision)*, New York: UN Division for Social and Economic Affairs, 2015.

<sup>285</sup> See annex VII for more information.

<sup>286</sup> European Commission, “Economic and Financial Affairs”, <[http://ec.europa.eu/economy\\_finance/explained/the\\_financial\\_and\\_economic\\_crisis/why\\_did\\_the\\_crisis\\_happen/index\\_en.htm](http://ec.europa.eu/economy_finance/explained/the_financial_and_economic_crisis/why_did_the_crisis_happen/index_en.htm)>.

the financial crisis. Indeed, in these same years, emerging and developing countries, as the members of the ACP Group are, have experienced a slow but still positive growth,<sup>287</sup> higher than that of northern industrialized states. Moreover, between 2001 and 2010, six out of ten of the world's fastest growing economies belonged to Africa, one of the three ACP regions.<sup>288</sup> Nowadays, many ACP Member States are in a favourable economic period: they are experiencing dynamic economies and an ever-increasing number of countries are upgrading to middle income rating.

It is thus clear that since 2000 the EU and the ACP Group have changed their format, they have been submitted and had to adapt to international challenges, and in 2020 they will find themselves in a position completely different from the one of 2000 when they signed the Cotonou Agreement.

### 3.2.4. NEW SECURITY ISSUES

Along with the developments related to globalisations, to new geopolitical realities, and to the changes within the EU and the ACP Group, the 21<sup>st</sup> century has brought also new challenges to be met. They are linked to the events characterizing the first years of 2000, as well as to the choices made in the last decades of the 20<sup>th</sup> century, and they deal mainly with terrorism, piracy, economic hardship and climate change. Differently from the past problems, these new challenges ignore national and international borders, being for this reason often referred to as “transnational threats”. They remind countries and governments all over the world of “the common security interests that mankind shares” and they “give a strong impulse for building a co-operative security community”<sup>289</sup>. The EU and the ACP Group are aware of the transnational threats they have to face and they understand the need for cooperation today more than ever before, particularly with respect to some issues such as migration and climate change.

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<sup>287</sup> Howard K. Sigwele, *The impact of the Economic and Financial Crisis on Africa: challenges and opportunities for the future*, Paper presented on behalf of the private sector in Botswana to the 10th Regional seminar of ACP-EU Economic and Social Interest Groups, Gaborone (Botswana): Delta Dairies, 29 June 2009.

<sup>288</sup> Mark Paterson and Kudrat Virk, *The African, Caribbean and Pacific (ACP) Group and the European Union (EU) - Policy Research Seminar Report*, Cape Town: Centre for Conflict Resolution, January 2014, p. 15.

<sup>289</sup> Alyson JK Bailes, *More than a military challenge. Building a co-operative security community - International security in the 21st century: credible responses to real threats*, OSCE Security Days, Wien: OSCE, 21 June 2012.

## Migration

Migration is not only a relevant concern in the international fora, but it has also been one of the crucial issues of the ACP-EU Partnership, and it is likely to gain increasing importance in the future. Accordingly, research shows that there are some 23 million migrants belonging to the ACP states that have left their own countries,<sup>290</sup> giving rise to two major migratory phenomena: North-South migration, that is characterised by movements of people from developing ACP states to industrialised countries of the North (EU), and South-South migration, concerning intra-regional flows within the ACP Group. It is interesting to note that the largest part of ACP migrants, about 63% of them, pertains to South-South migration flows. Such movements represent 78% of all African migrations, and a lower percentage of movements from the Pacific and the Caribbean (24% and 16% respectively).<sup>291</sup> Whereas, with respect to North-South migration, Europe is one of the main destinations of ACP migrants, chosen by 15% of them (some 3.5 million people), but Canada, the US, Australia and New Zealand represent country targets too, especially for the inhabitants of the Caribbean and the Pacific areas.<sup>292</sup>

Aware of the relevance of this phenomenon, the Parties agreed to tackle this problem together since 2000, when they wrote down Article 13 of the Cotonou Agreement, providing for the establishment of a regular dialogue on migration between the ACP Group and the EU. Furthermore, other initiatives to coordinate the management of migratory flows took form in the years that followed, such as the launch of the ACP-EU Migration Action on January 2015, aiming at implementing the recommendations of the ACP-EU Joint Declaration on Migration and Development of June 2010,<sup>293</sup> or the intra-ACP Migration Facility, launched in 2009 by the ACP Group of states and funded by the EDF, with the objective of mainstreaming “migration into ACP national and regional development strategies and policies”<sup>294</sup>.

Furthermore, the EU has developed specific policies to address migration issues in relation to Africa, which is the region of the ACP Group with the highest number of emigrants heading to Europe. These plans include for example the creation of the Africa-EU

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<sup>290</sup> Mark Paterson and Kudrat Virk, *The African, Caribbean and Pacific (ACP) Group and the European Union (EU) - Policy Research Seminar Report*, Cape Town: Centre for Conflict Resolution, January 2014, p. 33.

<sup>291</sup> Ibid.

<sup>292</sup> Ibid.

<sup>293</sup> Global Forum on Migration and Development, “ACP-EU Migration Action”, <<https://www.gfmd.org/pfp/ppd/2249>>.

<sup>294</sup> The ACP Migration Archive, “Intra-ACP Objectives”, <<http://acpmigration.org/intra-ACP-objectives/>>.



Partnership on Migration, Mobility and Employment (MME), instituted with the joint Africa-EU declaration on migration and development of 2006; the Joint Declaration on Migration and Mobility of 2014, implementing an Action Plan for the period 2014-2017; the Rabat process started in 2006; and the EU-Horn of Africa Migration Route Initiative of 2014 (Khartoum process).<sup>295</sup>

However, due to the variety and the wide-ranging nature of the countries involved, the issue of migration is not an easy one to tackle within the ACP-EU framework. The EU and each one of the African, the Caribbean and the Pacific regions have very different migration policies and interests, as a consequence, their commitment to the dialogue on migration varies accordingly.<sup>296</sup>

Finally, it has to be underlined that the perspectives the Parties have on migration do not always coincide. Actually, on the one hand, the ACP countries have recognised the nexus between migration and development asking for investigating the root causes at the basis of the problem.<sup>297</sup> On the other hand, the EU, while agreeing in the developmental effects of migration, has tended to consider migration as a security issue, focusing on the threat immigrants can represent, claiming that granted refugees are only a low rate and that among asylum seekers there is a high number of migrants moving for economic or other reasons.<sup>298</sup> Additionally, the contentious questions of return and readmission of illegal immigrants have often been raised by the EU, which has not always find a collaborative and trustworthy partner on the ACP side.

Hence, although much has been done until now, migration remains a sensitive and controversial issue that will be at the centre of ACP and EU strategies, as well as a key point in future Post-Cotonou discussions.

### **Climate change**

When the ACP Group and the EU signed the Cotonou Agreement, climate change was not among their priorities, and, consequently, it was rarely mentioned in the first text of their

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<sup>295</sup> European Commission, *The European Union's cooperation with Africa on migration - Fact sheet*, Brussels: European Commission, 22 April 2015.

<sup>296</sup> Jean Bossuyt, Niels Keijzer, Afonso Medinilla and Marc De Tollenaere, *The future of ACP-EU relations: A political economy analysis*, Maastricht: ECDPM, January 2016, p. 97.

<sup>297</sup> ACP, "Declaration of the 8<sup>th</sup> Summit of ACP Head of States and Governments of the ACP Group of States", <<http://www.acp.int/content/declaration-8th-summit-acp-heads-state-and-government-acp-group-states>>.

<sup>298</sup> European Commission, *ACP - EU relations after 2020: Issues for the EU in consultation phase 1 - Final Report*, Brussels: European Commission, July 2015, p. 61.

Partnership. Nevertheless, since 2000 this issue has gradually gained importance, becoming today one of the most relevant global problems, widely discussed both at the ACP-EU level and internationally. That is why, already during the second revision of the ACP-EU Partnership Agreement in 2010, the Parties decided to recognise climate change as a major subject of their relationship, and made a clear commitment including a new article, Article 32(A) of the Cotonou Agreement, completely dedicated to this specific global challenge. In the last few years, the worldwide climatic situation has worsened, requiring further efforts on both the ACP and the EU side.

The ACP countries, referring especially to the Caribbean and Pacific small-island, landlocked, and least developed states, have proved to be “particularly vulnerable to the adverse effects”<sup>299</sup> caused by climate change. In these areas, states that are already meeting many difficulties in developing their economies and escaping poverty, are further conditioned by the increasingly severe climate-related phenomena they are experiencing such as floods, droughts, cyclones, sea-level rise, costal erosion and environmentally induced displacements. The consequences these countries will have to face in the long term may be dramatic, leading also to a major humanitarian challenge.<sup>300</sup>

In order to help the ACP countries to cope with these adverse phenomena, in November 2015 the EU, a frontrunner in climate-related matters, has allocated € 475 million for the period from 2014 to 2020 to implement programmes concerning climate change and environment under the Intra-ACP Strategy for ACP wide development programmes.<sup>301</sup> Moreover, recently, the EU and the ACP Group together have played a major role in the adoption of the Paris Agreement on Climate Change, concluded during COP 21 held in Paris in December 2015. As a matter of fact, at the meeting, they presented an ACP-EU joint statement calling for a legally-binding, inclusive and ambitious agreement, with long term objectives and a 5-yearly review mechanism.<sup>302</sup> In this way, they gave the start to an “Ambition Coalition”, which came soon to include other major powers and emerging countries, and contributed, in the end, to the success of the Summit.

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<sup>299</sup> ACP, “Declaration of the 8<sup>th</sup> Summit of ACP Head of States and Governments of the ACP Group of States”, <<http://www.acp.int/content/declaration-8th-summit-acp-heads-state-and-government-acp-group-states>>.

<sup>300</sup> European Commission, *ACP - EU relations after 2020: Issues for the EU in consultation phase I - Final Report*, Brussels: European Commission, July 2015, p. 49.

<sup>301</sup> ACP, “ACP-EU role in catalysing Paris Agreement on Climate Change highlighted at EDD16”, <<http://www.acp.int/content/acp-eu-role-catalysing-paris-agreement-climate-change-highlighted-edd16>>.

<sup>302</sup> Ibid.

This notwithstanding, COP 21 meeting was only the first step towards a better management of the problem of climate change. As the ACP Secretary General Dr. Gomes asserted during the European Development Days (EDD) 2016, the EU and the ACP Group need to build an even stronger alliance, if they want to ensure the implementation of the ambitious goals set at the Paris Conference. Furthermore, developing countries need financial resources to attain the fixed targets, and funds are hard to find and collect nowadays.

A final hindrance to the joint ACP-EU management of climate challenges lay in the preference of the Parties, above all of the EU, to develop regional dynamics, as it is happening in other policy spheres. For instance, through the JAES, African countries and the EU have worked together building a common understanding on subjects related to climate, and improving the coherence and enhancement of their climate-related actions such as ClimDev-Africa.<sup>303</sup> Other specific states associations and fora offer, then, the ACP countries more concrete opportunities to tackle the challenge of climate change; the group of Small Island Developing States (SIDS)<sup>304</sup> and the Caribbean Community Climate Change Centre (5Cs) are some examples.

Climate change has proved to be a core issue of ACP-EU relations, since it may dramatically affect the development and the economic outcomes of both Parties. Therefore, it is essential that the ACP Group and the EU continue to jointly tackle this subject, dedicating increasing funds and work to it.

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<sup>303</sup> Jean Bossuyt, Niels Keijzer, Afonso Medinilla and Marc De Tollenaere, *The future of ACP-EU relations: A political economy analysis*, Maastricht: ECDPM, January 2016, p. 100.

<sup>304</sup> The group of the SIDS comprises: Cabo Verde, Comoros, Guinea-Bissau, Maldives, Mauritius, Sao Tomé and Príncipe, Seychelles, Singapore, Antigua and Barbuda, Bahamas, Barbados, Belize, Cuba, Dominica, Dominican Republic, Grenada, Guyana, Haiti, Jamaica, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Suriname, Trinidad and Tobago, Fiji, Kiribati, Marshall Islands, Micronesia (Federated States of), Nauru, Palau, Papua New Guinea, Samoa, Solomon Islands, Timor-Leste, Tonga, Tuvalu, Vanuatu, American Samoa, Anguilla, Aruba, Bermuda, British Virgin Islands, Cayman Islands, Commonwealth of Northern Marianas, Cook Islands, Curacao, French Polynesia, Guadeloupe, Guam, Martinique, Montserrat, New Caledonia, Niue, Puerto Rico, Saint Maarten, Turks and Caicos Islands, U.S. Virgin Islands.

### 3.2.5. 2030 AGENDA (A2030) AND THE SUSTAINABLE DEVELOPMENT GOALS (SDGs)

One last but not less important point that need to be mentioned when considering the global changes affecting the future of the ACP-EU Partnership is the adoption of 2030 Agenda. It was agreed by world leaders at the United Nations Sustainable Development Summit of September 2015 and it provides for the implementation of 17 new Sustainable Development Goals.

In the Cotonou Agreement, the Parties included specific references to the former Millennium Development Goals (MDGs), with the aim of being in line with the international policies and targets of sustainable development. In particular, in the 2005 revision of the Agreement, the Preamble underlines that “the Millennium Development Goals emanating from the Millennium Declaration adopted by the United Nations General Assembly in 2000, in particular the eradication of extreme poverty and hunger, as well as the development targets and principles agreed in the United Nations Conferences, provide a clear vision and must underpin ACP–EC cooperation within this Agreement”.

However, since the establishment of 2030 Agenda, with its 17 broader and more ambitious SDGs, and 169 associated targets, the ACP-EU Partnership has resulted out of date with respect to the new international development objectives. Indeed, although the focus of the new agenda remains on poverty reduction, with additional emphasis on sustainable development, hunger elimination, inequality reduction, respect of human rights, and fight to violence, it promotes a new “global partnership”, which encompasses all countries and employs all means at its disposal, seeking a universal approach.<sup>305</sup>

Some divergences between the actual ACP-EU Partnership and 2030 Agenda can thus be identified, the most evident of which are listed below:

- The 2030 Agenda aims at transcending the traditional divide between Northern richer countries and Southern poorer ones, applying the SDGs equally to the EU and to the ACP Group; on the contrary, the Cotonou Agreement is basically a North-South,

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<sup>305</sup> High Representative of the Union for Foreign Affairs and Security Policy, *Joint Consultation Paper: Towards a new partnership between the European Union and the African, Caribbean and Pacific countries after 2020*, Luxembourg: EU Publication Office, 6 October 2015, p. 3.

donor-beneficiary relationship, in which the EU supports the development of the ACP states.<sup>306</sup>

- Despite continuing to grant financial assistance to the less developed countries, the new UN commitments have the objective of moving beyond aid, and devote more attention and resources to the management of new global challenges, as well as to the related collective actions; by contrast, the ACP-EU relation provides essentially for financial aid that the EU allocates to the ACP Group under the EDF, making it difficult to identify successful collective non-aid policies in the framework of the Cotonou Agreement.<sup>307</sup>
- A key element of 2030 Agenda is universality, but at the same time differentiation, too, has become a crucial point in international development; the EU, for its side, has already tried to follow the differentiation principle, while the ACP states have shown some reluctance, advocating that it would erode the Group's unity and solidarity.<sup>308</sup>
- Finally, while the new global agenda includes not only conventional actors such as governments, agencies and multilateral institutions, but also other institutional partners and stakeholders; until now, the Cotonou Agreement has failed to involve actors that are not central governments in ACP-EU relations.

Hence, it is fundamental that the Cotonou Agreement is adapted to these new commitments and actions, whereas, in the meantime, preserving those issues that result to be more ambitious than the goals set in the 2030 Agenda, and without renouncing to the acquis obtained until now by the ACP-EU Partnership .

### 3.3. WHAT FUTURE FOR ACP-EU RELATIONS?

The history of the ACP-EU Partnership has been lasting for over forty years, during which circumstances and interests have changed considerably. The ACP Group and the EU have always tried to adapt and renew the terms of their relationship in order to better respond to their new necessities and to the challenges posed by the outside world. Indeed, when the Yaoundé Association did not fit anymore, they agreed the Lomé Convention; they revised

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<sup>306</sup> European Commission, *ACP - EU relations after 2020: Issues for the EU in consultation phase 1 - Final Report*, Brussels: European Commission, July 2015, p. 17.

<sup>307</sup> Jean Bossuyt, Niels Keijzer, Afonso Medinilla and Marc De Tollenaere, *The future of ACP-EU relations: A political economy analysis*, Maastricht: ECDPM, January 2016, p. 101.

<sup>308</sup> Ibid.

the Lomé provisions every five years to keep up with the changes; and when they understood a new innovative arrangement was needed, the Parties concluded the Cotonou Agreement for a period of 20 years starting from 2000.

As it has been mentioned in the two previous sections (3.1 and 3.2) of this chapter, after sixteen years of functioning of the Cotonou Agreement, the first (not always positive) results of the Partnership have come, and, at the same time, it is evident that the ACP Group and the EU have considerably evolved, as well as the world around has underwent significant transformations. Therefore, in the exceeding years until the expiry of the current ACP-EU Agreement, the Parties are to discuss and decide what will be the future of their Partnership. In the next paragraphs, the different options the ACP Group and the EU have will be presented. Accordingly, they can either dissolve the arrangement putting an end to their relationship as it is today, they can modify the existing Agreement to make it more suitable for the present and future global context, or they can choose to establish a new Agreement, starting over again.

Reaching consensus between the Parties is not easy, though. Despite the common perception that the ACP-EU Partnership has played and could still play a major role in driving the policies of both Parties and improving their action, they are concerned with different interests. On the one hand, the ACP countries are willing to engage more actively in the relationship with the EU, becoming more involved in the decision-making process and in the implementation of joint ACP-EU actions, whereas preserving European financial aids essential for their development. On the other hand, the EU aims at transcending the current donor-recipient relation in favour of an increased focus on political and shared values, and at developing its actions and policies on the basis of the differentiation principle.

Although common understanding has not been reached yet, the first discussion papers and round tables have start to take place, and an initial assessment of the possibilities for the Post-Cotonou and of the positions of the Parties can be provided.

### 3.3.1. OPTIONS FOR THE POST-COTONOU

At present, the post-2020 is still an incognita for the ACP Group and the EU. However, in accordance with the current state of play and the available documents, different scenarios for the future ACP-EU relations can be envisaged.

### Option 1:

The first option the Parties have is essentially the most drastic one, namely the dissolution of the ACP-EU Partnership.<sup>309</sup> This decision could result from the Parties becoming aware of the poor or unsuccessful results achieved during the remaining in force of the Cotonou Agreement, which has proved to be theoretically exhaustive and ambitious, but, at the same time, difficult to implement on the ground. Another reason that could lead to the termination of ACP-EU formal relations lays in the new different priorities developed by the Parties, which could not be satisfied anymore by the promises of the existing agreement. Indeed, it could be referred to as an arrangement “emerged out of a world that no longer exists”,<sup>310</sup>.

Admittedly, putting an end to the long-standing ACP-EU ties would have some implications. As a matter of fact, Article 209 of the Lisbon Treaty, providing for a privileged framework for EU cooperation with the ACP Group, would be eliminated. Then, the relationship between the two Parties would be regulated by the EU existing thematic schemes and local approaches such as the EU Global Strategy<sup>311</sup> and the envisaged renewed European Consensus on Development. The already established regional strategies, namely the JAES, the Joint Caribbean-EU Partnership Strategy and the Strategy for a Strengthen Partnership with the Pacific Island<sup>312</sup> would contribute to the government of their relations, too, while the Economic Partnership Agreements instituted between the EU and the various ACP regions, and the GSP and EBA policies would manage trade issues. As regards to financial aid, it could be granted through the continuation of the EDF or, alternatively, with the creation of a new financing tool. Finally, from the moment that Articles 8 and 96 of the Cotonou Agreement would disappear, political dialogue would rely on ad-hoc arrangements to be eventually agreed between the partners.

### Option 2:

In the second place, the contracting Parties of the current Cotonou Agreement could opt for not renewing it, but to conclude, instead, three new separate arrangements between the EU

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<sup>309</sup> European Parliament - Directorate-General for External Policies, *Policy Briefing - ACP-EU relations after 2020: Review of options*, Brussels: European Union, February 2013, p. 7.

<sup>310</sup> Ibid.

<sup>311</sup> Adopted in June 2016 and implemented on October 2016, it has the objective of engaging the EU with the wider world and making it more effective in tackling current global challenges.

<sup>312</sup> High Representative of the Union for Foreign Affairs and Security Policy, *Impact assessment accompanying the document ‘Joint Communication to the European Parliament and the Council: A renewed partnership with the countries of Africa, the Caribbean and the Pacific’- Joint Staff Working Document*, Luxembourg: EU Publication Office, 22 November 2016, p. 27.

on the one side, and each one of the three regions composing the ACP Group (Africa, Caribbean and Pacific) on the other side.<sup>313</sup> The different partnerships would better address the specificities of each area, providing for joint projects and actions that tackle the peculiar necessities and characteristics of the individual regions.

The adoption of this solution would recognise the growing role played by regional communities within the ACP Group and it would be in line with the recent phenomenon of regionalisation largely favoured by the EU and developed both at a global level and within the framework of ACP-EU relations. However, it has to be considered that opting for this second possibility would mean that the relation with a cohesive group comprising African, Caribbean and Pacific states would not be necessary anymore, and probably the ACP Group would gradually lose its strength, ultimately dissolving.

### Option 3:

The third possible scenario for the Post-Cotonou consists on the renewal of the ACP-EU Partnership, maintaining the existing Agreement, but making the appropriate adjustments and improvements in order to deal with the evolving international context.<sup>314</sup> The renewed agreement would thus include the participation of a greater number of stakeholders, as well as a broader range of goals, to comply with today's global requirements and with the new principles of 2030 Agenda. According to the European Parliament and Council, the arrangement resulting from this solution would be characterised by two sections: the first defining ACP-EU common values and actors, the second dealing with the cooperation areas of concern, and it would consequently move beyond the former structure of the Cotonou Agreement actually based on three pillars.

In this way, the Parties would build on their current Partnership, without having to go through the uncertainty of not reaching a deal because of divergences on some sensitive issues such as migration, meanwhile preserving the advantages brought about by the existing ACP-EU Partnership, above all the allocation of financial resources to ACP states.<sup>315</sup>

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<sup>313</sup> High Representative of the Union for Foreign Affairs and Security Policy, *Impact assessment accompanying the document 'Joint Communication to the European Parliament and the Council: A renewed partnership with the countries of Africa, the Caribbean and the Pacific'- Joint Staff Working Document*, Luxembourg: EU Publication Office, 22 November 2016, p. 32.

<sup>314</sup> Ibid, p. 31.

<sup>315</sup> Jean Bossuyt, Niels Keijez, Alfonso Medinilla and Marc De Tollenaere, *The future of ACP-EU relations: A political economy analysis*, Maastricht: ECDPM, January 2016, p. 11.



#### Option 4

The fourth and last option can be described as a middle-ground between the second and the third solution, since it suggests the coexistence of an overarching ACP-EU Partnership in addition to a stronger and increased participation of regional partners.<sup>316</sup> Accordingly, it would consist of a broad agreement formed by two components: an “umbrella ACP-EU Partnership”<sup>317</sup>, defining the Parties’ common values and interests, as well as the possible cooperation strategies to undertake internationally; and three regional separate arrangements with each area of the ACP Group, focusing on the different specific contexts, needs and priorities, on the basis of which appropriate actions should be taken.<sup>318</sup> Totally, four different agreements would be established.

In the case that any of the above mentioned options, with the exception of the first one, should be put into practice, the EU and the ACP Group should also consider other aspects of their future relationship such as the extension of the Agreement(s) to new states. For instance, there have been suggestions to include the nine LDCs that are not ACP members yet, as well as the non-ACP countries belonging to the SIDS, in the future ACP-EU Partnership. Equally, it is highly probable that the involvement of the five Northern African states, which do not belong to the ACP Group but are part of other associations engaged with the EU such as the AU, will be seriously addressed in the discussions of the Post-Cotonou. The possibility of extending the geographical scope of the Agreement even more has been mentioned too, for example enclosing Latin American countries.<sup>319</sup>

For the time being, in the Joint Communication to the European Parliament and the Council of 22 November 2016, the EU has expressed its preference for Option 4, asserting that it would allow to “tackle issues at the right level and in the right setting, on the principles of subsidiarity and complementarity”. However, neither the EU nor the ACP Group have expressed a clear and defined position, yet.

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<sup>316</sup> European Parliament - Directorate-General for External Policies, *Policy Briefing - ACP-EU relations after 2020: Review of options*, Brussels: European Union, February 2013, p. 8.

<sup>317</sup> Ibid.

<sup>318</sup> High Representative of the Union for Foreign Affairs and Security Policy, *Impact assessment accompanying the document ‘Joint Communication to the European Parliament and the Council: A renewed partnership with the countries of Africa, the Caribbean and the Pacific’ - Joint Staff Working Document*, Luxembourg: EU Publication Office, November 2016, p. 32.

<sup>319</sup> Tina Tindemans and Dirk Brems, *Post-Cotonou: Preliminary positions of EU Member States - Briefing Note No. 87*, Maastricht: ECDPM, February 2016, p. 5.

### 3.3.2. THE EU PERSPECTIVE

Differently from the ACP Group, in the last few years, the EU has provided many occasions for its Member States to discuss about the future prospects for the Post-Cotonou, be they joint consultations, round tables, opinions, reports or resolutions. In order to have a multifaceted perspective and to deeply analyse every single present and future characteristic of the ACP-EU Partnership, various institutions have been called into question by the EU, such as the European Parliament, the European Commission, and in particular its sub-structures DG DEVCO and EuropAid, the European Economic and Social Committee, and the Committee on Development.

The general point of view of the EU Member States on the Post-Cotonou can be summarized by the words of the Commissioner for Development Neven Mimica, which appeared before the European Parliament's Committee on Development on 29 September 2014. In this occasion, he expressed its informal position, consistent with that of the EU countries and institutions, by claiming that “[...] we shall continue such a partnership with ACP countries, especially with Africa” but “we have to adapt to some of the new realities, which means that maybe we can think of having overarching principles agreed with the ACP countries that would cover all aspects of our future cooperation [...]”<sup>320</sup>.

During the institutional confrontations among the EU Member States, they have displayed divergences as well as approvals on the several details concerning the post-2020. According to the dissimilar interests and opinions they have delivered, three groups of EU countries can be identified:

- In the first place there are the former EU13 states. They are aware of the different priorities the EU members that entered the Union after 2000 have with respect to the ACP-EU Partnership, and they underline the necessity of gaining reciprocal benefits from the future relation with the ACP countries;
- A second group is mainly represented by Scandinavian states and other EU15 countries without a colonial past, claiming for a deep evaluation of the current functioning of the Cotonou Agreement and for the alignment of the future ACP-EU Partnership with global targets, the 2030 Agenda and the SDGs;

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<sup>320</sup> N. Mimica, Speech delivered before the European Parliament's Committee on Development on 29 September 2014, in Manuel Manrique Gil, *ACP-EU relations after 2020: State of play*, Brussels: European Union, December 2014, p. 2.

- The third and final group comprises EU states with a colonial past which have bilateral interests in maintaining the cooperation with the ACP Group, and some others states that share with the former the notion of reframing the Cotonou Agreement less drastically than as envisaged by their colleagues.<sup>321</sup>

Nevertheless, from the formal and informal meetings organised until now, some common reflections on the Post-Cotonou have emerged, too. These are mainly related to the general framework the future ACP-EU agreement should have, the principles it should promote and the management of trade and financial issues.

### **General framework and principles**

The majority of EU countries considers it really important that the future ACP-EU Partnership has a legally binding nature. This is a key feature of the Cotonou Agreement and it has been instrumental for the implementation and progresses made until now, in particular with respect to states' commitment to and projects for the promotion of essential elements (democracy, human rights and migration) that would have otherwise been abandoned.<sup>322</sup> On the other hand, flexibility should not be completely sacrificed for the binding legal framework, since the future agreement should be able to adapt to the rapidly changing global environment.

Moreover, there is common agreement among EU members on the need to transcend the donor-recipient mentality characterising current ACP-EU relations, instead, an equal, modern and effective Partnership with the ACP countries would be preferred.<sup>323</sup> This should translate into a partner-to-partner Agreement in which the peer-to-peer approach would be adopted and the Parties would commit to a shared sense of responsibility, reciprocal ownership and mutual accountability.<sup>324</sup> In order to establish a Partnership that goes beyond the traditional North-South paradigm of cooperation, the Agreement should be based on trust, common values and mutual benefits for both Parties.

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<sup>321</sup> Tina Tindemans and Dirk Brems, *Post-Cotonou: Preliminary positions of EU Member States - Briefing Note No. 87*, Maastricht: ECDPM, February 2016, p. 10.

<sup>322</sup> High Representative of the Union for Foreign Affairs and Security Policy, *Impact assessment accompanying the document 'Joint Communication to the European Parliament and the Council: A renewed partnership with the countries of Africa, the Caribbean and the Pacific' - Joint Staff Working Document*, Luxembourg: EU Publication Office, 22 November 2016, p. 66.

<sup>323</sup> Brenda King, *Opinion of the European Economic and Social Committee on the Future of EU's relations with ACP Group of countries*, Luxembourg: EU Publication Office, 25 May 2016.

<sup>324</sup> Tina Tindemans and Dirk Brems, *Post-Cotonou: Preliminary positions of EU Member States - Briefing Note No. 87*, Maastricht: ECDPM, February 2016, p. 3.

Hence, cooperation between the ACP Group and the EU should not be intended mainly in economic terms as it is at present, but it should have to primarily tackle issues of mutual beliefs and interests related to the prosperity and development of the Parties such as peace and security, geopolitical challenges, human rights, migration, climate change and the environment. Many of these common values correspond to the principles recently expressed in the 2030 Agenda and the SDGs, which the EU countries have referred to in most of their documents on the Post-Cotonou and they have committed to pursue them in the ACP-EU cooperation programmes.

### **Political dimension**

Linked to the question of common values and principles, another key element that has been repeatedly highlighted by EU Member States concerns the political dimension, and the related principle of conditionality regulated by Articles 96 and 97. These features, already present in the existing Cotonou Agreement, make it a unique and pioneer arrangement in the field of development cooperation. Not only political dimension and conditionality are regarded as essential elements in the EU cooperation policy and have to be ensured after 2020, but, in a future ACP-EU Agreement, the Parties should improve and strengthen their political dialogue, including also new consultation procedures for sensitive issues.<sup>325</sup>

This could prove to be a hard task, since some of the EU fundamental values subject of political dialogue are not shared at all by some ACP states, making it difficult to find a common ground. Moreover, the EU has to consider its global competitors, too: there are countries such as China which are easier on the respect of human rights and environment, offering, at the same time, favourable economic conditions and business development. Anyhow, EU Member States have clearly expressed that there is no way in which the EU could consider dropping its founding values in any kind of relationship with partner countries.<sup>326</sup> Therefore, it is clear that a future Partnership would focus more in promoting and providing an effective political dialogue and that it would increasingly foster the pursuit of common priorities than today.

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<sup>325</sup> High Representative of the Union for Foreign Affairs and Security Policy, *Joint Communication to the European Parliament and the Council: A renewed partnership with the countries of Africa, the Caribbean and the Pacific*, Luxembourg: EU Publication Office, 22 November 2016, p. 9.

<sup>326</sup> Tina Tindemans and Dirk Brems, *Post-Cotonou: Preliminary positions of EU Member States - Briefing Note No. 87*, Maastricht: ECDPM, February 2016, p. 6.

## Trade

Despite remaining a major means to achieve the development of the ACP countries and to enhance their regional cooperation, trade would not be the centre of future ACP-EU relations anymore. EPAs would continue to be effective and further implemented, however, their application would be submitted to new, binding, minimum requirements concerning human rights as well as social and environmental parameters, so that to grant the sustainability and the fairness of the development of ACP states.<sup>327</sup> Furthermore, the functioning and impacts of EPAs, especially on the ACP countries, should be closely supervised through the establishment of a monitoring system, in which civil society would be actively included, and which would have the objective of detecting and preventing any possible negative effects of trade liberalisation.<sup>328</sup>

## Financial resources

Financial aid is another of the cornerstones of the ACP-EU Partnership that EU countries are willing to keep ahead, since the EDF has been the main instrument to financially support development projects and peace building. Additionally, in order to better respond to the actual and future global challenges, in future ACP-EU relations, allocations to the ACP states should be further strengthened and channelled towards country specific programmes.

However, there are still discrepancies among EU Member States regarding the form of the future financing tool for the ACP countries. Accordingly, the EU is divided between those states who are in favour of the budgetisation of the EDF, and those who openly oppose at it.<sup>329</sup> If the EDF were budgetised, this would mean that it would be aligned with the EU external action policy, becoming part of the EU Multiannual Financial Framework (MFF), and it would thus take into consideration broader issues such as the Agenda for change, regional differentiation and Post-2015 Agenda.<sup>330</sup> The European Parliament, although seriously endorsing the budgetisation of the EDF, has stressed that this should be conditioned by some requirements, be they “a guaranteed ring-fencing of developing funds to maintain the level of financing for developing countries, and a permanent and

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<sup>327</sup> European Parliament, *European Parliament resolution of 4 October 2016 on the future of ACP-EU relations beyond 2020*, Strasbourg: European Parliament, 4 October 2016.

<sup>328</sup> Ibid.

<sup>329</sup> Tina Tindemans and Dirk Brems, *Post-Cotonou: Preliminary positions of EU Member States - Briefing Note No. 87*, Maastricht: ECDPM, February 2016, p. 7-8.

<sup>330</sup> See Annex VIII for PROs and CONs of budgetisation of the EDF.

separate solution for EU financing of security expenses that are linked to and in coherence with development cooperation”<sup>331</sup>.

## **Approach**

Both the European Parliament and the EESC, consistent with the overall EU opinion, recommend a multi-stakeholder approach that further reinforces the legitimacy and the role of non-state actors, civil society organisations and the private sector in the future ACP-EU cooperation. This would imply, first of all, the engagement of the Parties to provide technical and financial support in order to stimulate and enhance the active participation of the above-mentioned actors in the Partnership.<sup>332</sup> Their participation should be ensured during thematic topical meetings organised within the framework of the JPA, as well as in the different phases of execution of development projects. Equally, the involvement of NSAs, CSOs and the private sector in political dialogue could widely contribute to jointly tackle sensitive issues and challenges in a successful way.

Furthermore, according to the EU members, the post-2020 ACP-EU Partnership should be multi-dimensional and multi-level.<sup>333</sup> This means that actions should be taken at the most appropriate level of governance, employing the principles of regionalisation and differentiation. The result will be a shift from the actual centralised administrative system towards a more decentralised model that enhance individual and regional participation and work. In this respect, some EU Member States have talked about a new approach that draws inspiration from the concept of “Peer-to-Peer”<sup>334</sup>, focusing exactly on sharing knowledges and decentralising cooperation projects.

Participants to European institutional meetings are discussing the many priorities and innovations which would characterise a future ACP-EU Partnership, as well as the successful *aquis* of the Cotonou Agreement that should be preserved. In the next months the Post-Cotonou scenario will appear more distinct, and more reliable conclusions could be drawn.

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<sup>331</sup> European Parliament, *European Parliament resolution of 4 October 2016 on the future of ACP-EU relations beyond 2020*, Strasbourg: European Parliament, 4 October 2016.

<sup>332</sup> Brenda King, *Opinion of the European Economic and Social Committee on the Future of EU's relations with ACP Group of countries*, Luxembourg: EU Publication Office, 25 May 2016.

<sup>333</sup> High Representative of the Union for Foreign Affairs and Security Policy, *Towards a new partnership between the European Union and the African, Caribbean and Pacific Countries after 2020 - Joint Consultation Paper*, Luxembourg: EU Publication Office, 6 October 2015, p. 4.

<sup>334</sup> European Commission, *ACP-EU relations after 2020: Issues for the EU in consultation phase I - Final Report*, Brussels: European Commission, July 2015, p. 37.

### 3.3.3. THE PERSPECTIVE OF THE ACP GROUP

The ACP Group has formally started to discuss and reflect on the future of the Group itself and on its relations with the EU after 2020 during the 7<sup>th</sup> Summit of ACP Heads of State and Government, held in Sipopo in December 2012. In this occasion, the Sipopo Declaration (“The future of the ACP Group in a changing world: challenges and opportunities”) was adopted by all members.<sup>335</sup> The Sipopo Declaration proves to be a document of special relevance because it presents the current state of play of the ACP countries as a group and in relation to the EU. In particular, in the declaration, the ACP states welcome the progresses made until now in the field of trade, development, and peace and security, however acknowledging the significant and increasing challenges they have still to face, inside and outside the Group. They recognise the importance of a unitary group and they call for the strengthening of intra-ACP relations and South-South cooperation, which should not replace but be complementary to North-South partnerships.

Another important contribution to the discussion of the Post-Cotonou on the ACP side has been the institutionalisation of an Eminent Persons Group (EPG) in March 2013, with the aim of examining more in depth the possible options for post-2020 and determining which are the reforms required for a more effective cooperation framework.<sup>336</sup>

Despite this, official documents on the future of ACP-EU relations prepared by the ACP Group are considerably less in number, if compared to those drawn up by the EU and its bodies. Therefore, only some of the main features foreseen by the ACP countries for a future Post-Cotonou agreement can be determined, as summarised in the following points.

#### **General framework and values**

The ACP Group has repeatedly stressed that its future relations with the EU should involve the whole group. Compared to single arrangements between the EU and individual states or areas, an inclusive ACP-EU agreement provides for added values: the different regions and countries of the Group have the possibility of sharing knowledges and record the best practices, improving their quality of life and bolstering their development, while the EU could count on greater support for its causes and a more

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<sup>335</sup> Manuel Manrique Gil, *ACP-EU relations after 2020: State of play*, Brussels: European Parliament – Policy Department, Directorate-General for External Policies, December 2014, p. 1.

<sup>336</sup> *Ibid.*

successful impact in the employment of “soft powers”<sup>337</sup>. For the ACP Group, being a unitary group, recognised by the EU and internationally, is central to the achievement of its objective of becoming a global player, economically and politically. For instance, it has recently demonstrated that it could have a relevant role in international political processes, especially if coupled with the EU.

Moreover, the ACP countries recognise that their future Partnership with the EU should be based on a stronger political dialogue and on more joint actions, in order to tackle current sensitive issues, above all migration.<sup>338</sup> The Group has already expressed its support to the inclusion in the post-2020 agreement of the values and principles expressed in the 2030 Agenda, as well as to commit to pursue the objectives set under the SDGs.

### **Financial resources**

The importance of financing funds allocated from the EU to the ACP states has been reiterated in almost all documents and declarations. It has been underlined that the EDF is the principal tool of financial assistance, it has played a major role in supporting development projects in those areas,<sup>339</sup> and should thus be maintained also in the future Partnership.

Referring to the increasing differentiated external policy adopted by the EU in the last few years, which has been characterised by the establishment of many new funds (e.g. the External Investment Plan for Africa), the ACP General Secretary Gomes has urged that more careful studies should be made. Accordingly, the areas of investment should be identified beforehand, determining the priority programmes of action, and consequently avoiding the proliferation of many similar projects under different financial instruments, as well as the waste of money that would inevitably result.<sup>340</sup>

Additionally, in the Sipopo Declaration of 2012, ACP states expressed their concern with respect to the differentiation principle promoted by the EU in the allocation of European cooperation funds different from the EDF, since they claim that a reduction of EDF resources may emerge.

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<sup>337</sup> Patrick Gomes, Interview for the European External Action Service AFRICA YEEAS! Newsletter, 20 January 2016, <<http://ecdpm.org/publications/interview-patrick-gomes-acp/>>.

<sup>338</sup> ACP, “Declaration of the 8<sup>th</sup> Summit of ACP Head of States and Governments of the ACP Group of States”, <<http://www.acp.int/content/declaration-8th-summit-acp-heads-state-and-government-acp-group-states>>.

<sup>339</sup> Ibid.

<sup>340</sup> Patrick Gomes, Interview for “Vita International”, 14 October 2016, <<http://www.vitainternational.media/en/interview/2016/10/14/patrick-gomes-acp-group-of-statesdiversifying-partnerships-is-key-for-/31/>>.



## Trade

Finally, concerning the future trade arrangements between the EU and the ACP Group, the latter asks for a firmer and more concrete commitment from the European side, due to the not always positive results of EPAs. According to the ACP countries, the EU should encourage “deeper trade and investment relations”<sup>341</sup> in their territories, while allowing some flexibility and preserving the current advantages granted to ACP markets. Accordingly, the EU should always take into account its commitments while negotiating economic arrangements with third parties that may become competitors of the ACP states and undermine their economies.<sup>342</sup>

Another problem linked to the commercial field that the ACP Group want to solve in the Post-Cotonou concerns the exclusion of upper middle income states and the signatory countries of the EPA from European GSP provisions. The Group has highlighted the need of having financial support to foster the on-going development process, and suggests to consider other parameters and variables in the classification of the beneficiaries of EU economic funds.

As a last point, the ACP Group has repeatedly stressed that the EU should continue to promote and further support the growth of triangular and South-South cooperation and trade, which have proved to be essential in contributing to the reduction of poverty and economic development.

Overall, it can be noted that, for the ACP Group, EU Partnership is still of fundamental importance, and it is favourable to renew the existing agreement, adjusting it to the new challenges emerged and making it more concrete and effective. However, on the ACP side, no defined line has been set for the Post-Cotonou until now, clear preferences on the future framework of ACP-EU relations have not been clearly expressed yet, and discussions within the Group are still ongoing.

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<sup>341</sup> ACP, “Declaration of the 8<sup>th</sup> Summit of ACP Head of States and Governments of the ACP Group of States”, <<http://www.acp.int/content/declaration-8th-summit-acp-heads-state-and-government-acp-group-states>>.

<sup>342</sup> ACP, “Sipopo Declaration ‘The future of the ACP Group in a changing world: challenges and opportunities’”, 7<sup>th</sup> Summit of Heads of State and Government, Sipopo, Equatorial Guinea, <<http://www.acp.int/content/outcome-documents-7th-summit-acp-heads-state-and-government-and-96th-acp-council-ministers>>.

## CONCLUSIONS

When the ACP and EU representatives met in the capital of Benin in 2000, they knew they were signing a pioneer agreement in the field of North-South cooperation. Actually, the Cotonou Agreement does not only regulates trade relations, providing for the establishment of WTO-compatible economic arrangements, and the allocation of financing aid resources under the European Development Funds, as other European and international arrangements do, but it tackles extensively and in depth sensitive political issues. The main innovative characteristic of the ACP-EU partnership lays exactly in this aspect, in its political dimension, which aims at promoting the respect of human rights and the rule of law, as well as of democracy and equality. The inclusion of actors different from the governmental ones, namely non state actors, and the co-management of the partnership through the creation of joint institutions, represent special features of the Agreement, too, contributing to its peculiarity.

To get this far, the ACP Group and the EU have walked a long road together. Started basically as a post-colonial relation between the ECC and the AASM in 1963, it has then evolved in the strong consolidated ACP-EU partnership that lasts till today, a unique example of development cooperation. It has succeeded in including an increasing number of countries that now amounts to 106 states, and adapting to the many changes that during more than fifty years affected both the contracting Parties and the outside world. The ACP Group and the EU have been able to understand the relevance of maintaining and strengthening their economic deals, in order to favour the development and enrichment of the Member States. Equally, through the years, the EU has allocated more and more financial resources to the ACP countries, conscious that the financing of cooperation programmes was necessary to allow the sustainable development and the integration of these states into the developing world, as the results of some projects can attest. Instead, the political part of the ACP-EU relationship has been built little by little, placing more and more value on the principles of equality, human dignity and democracy. Only with the Fourth Lomé Convention, the establishment of a human rights clause was comprised among the provisions of the agreement.

In the light of this, it can be said that the ACP-EU Partnership counts on a long history, during which it has faced many challenges, renewed, and consolidated the ties between the ACP Group and the EU. Therefore, although the Cotonou Agreement is due to expire in a

three-year time, in 2020, it cannot be expected that such lengthy and unique relation will be eliminated overnight. The Parties have worked together for more than fifty years to optimize their deals, achieving sometimes great results: import/export trade flows between them have intensified and made consistent with WTO parameters, security missions and development projects have been implemented, allowing the ACP countries to improve their political and social situation, and, in the international stage, the ACP Group and the EU are proving the relevant role they can play joining forces. If there were no Post-Cotonou, the strategic interests both Parties have in continuing their cooperation, be they material benefits or/and ideological interests, would be inevitably lost.

In the meantime, there are also clear evidences showing that the Agreement has not completely met the ambitious expectations the ACP states and the EU had when they signed it. The delayed and partial implementation of EPAs, the negative remarks made by the ACP countries to the management of the EDF, the few resorting to political dialogue and Article 96, or the malfunctioning of joint institutions are just some examples of the weaknesses shown by the Cotonou Agreement. However, the failures observed during the last sixteen years should not discourage the Parties from pursuing their original objective. On the contrary, they should inspire the EU and the ACP Group to improve their Partnership and to continue taking future joint actions. Successful stories have, indeed, to be reminded and preserved, but important adjustments should be made, too. As a matter of fact, institutions should be made more powerful and operating, projects more efficient, and laws effectively respected and applied by both Parties.

Nevertheless, fine-tuning or small fixes could be not enough to solve the flaws of the Cotonou Agreement. Actually, the efficiency of the current ACP-EU Partnership has been undermined also by the many revolutionary changes that have affected and still influence today the dynamics of the global context and the policies of the ACP Group and of the EU as well. The Parties have to contend with new challenges mainly connected with the phenomenon of globalisation, the emergence of new realities and of different security problems such as migration or climate change. Similarly, they are more involved in international actions than they were in 2000. For instance, their commitments to the Post-2015 Development Agenda, to the Paris Agreement and to 2030 Agenda cannot be considered separately from the ACP-EU Partnership, and have hence to be included among its future driving principles.

At this point, it is undoubtedly that a radical reform of the ACP-EU Partnership is needed. To cope with all these changes, the ACP Group and the EU should completely reform the legal framework of their relations, proposing a new up-to-date agreement.

Since it appears evident that both Parties are willing to continue their relation, but they cannot keep it as it is at present, the most probable solution for the post-2020 that could better meet the needs of the Parties in the current evolving context is the one proposed by the European Commission to the European Parliament and Council. It consists in an inclusive ACP-EU agreement setting the fundamental values and the guiding lines of their partnership combined with three separate arrangements established with each one of the ACP regions, dealing with their economic and social specificities. In this way, the ACP-EU partnership could be still co-managed by the two Parties, be based on shared political principles, including also the new SDGs, and involve a great variety of actors. There would be general trade and financial rules, but these would be more efficient and adjusted to the different needs and characteristics of each region and sub-region, thanks to the separate EU-African, EU-Caribbean and EU-Pacific arrangements. This scenario could actually prove to answer validly to many of the major challenges the ACP Group and the EU have to face, preserving, at the same time, part of the original spirit of their relation.

At the time being, any real solution can be presented, discussions are still open and the Parties have not taken a firm stand yet. In compliance with Article 95(4) of the Cotonou Agreement, formal negotiations between the ACP Group and the EU to examine the future conditions governing their relations have to start no later than August 2018. Therefore, in the next three years the debate on the Post-Cotonou will assume increasingly importance, and by February 2020 the ACP Group and the EU shall finally indicate which way their partnership will go.



## **ANNEXES**

## ANNEX I – EDF allocations and contributions

**Table 1** - Total financial resources allocated to the EDF between 1959 and 2020 (including OCTs)

European Development Fund (EDF)	Time period	Financial resources (€ millions)
1 <sup>st</sup> EDF	1959-1964	569
2 <sup>nd</sup> EDF	1964-1970	730
3 <sup>rd</sup> EDF	1970-1975	887
4 <sup>th</sup> EDF	1975-1980	3,053
5 <sup>th</sup> EDF	1980-1985	4,207
6 <sup>th</sup> EDF	1985-1990	7,883
7 <sup>th</sup> EDF	1990-1995	11,583
8 <sup>th</sup> EDF	1995-2000	13,151
9 <sup>th</sup> EDF	2000-2007	13,500
10 <sup>th</sup> EDF	2008-2013	22,682
11 <sup>th</sup> EDF	2014-2020	30,500

Reported from: European Commission <[https://ec.europa.eu/europeaid/acp-eu-relations-after-2020-issues-eu-consultation-phase-1-final-report\\_en](https://ec.europa.eu/europeaid/acp-eu-relations-after-2020-issues-eu-consultation-phase-1-final-report_en)>.

**Table 2** – Allocation of financial resources to ACP states under the 9<sup>th</sup>, 10<sup>th</sup>, 11<sup>th</sup> EDF

Envelope	9 <sup>th</sup> EDF (million)	%	10 <sup>th</sup> EDF (million)	%	11 <sup>th</sup> EDF (million)	%
National and regional programmes	€12,146	70	€17,766	81	€24,365	84
Intra-ACP and intra-regional cooperation	€3,059	18	€2,700	12	€3,590	12
Investment Facility	€2,220	13	€1,500	7	€1,134	4
Total ACP resources	€17,425	100	€21,966	100	€29,089	100

Reported from: Alisa Herrero and Anna Knoll, with Cecilia Gregersen and Willy Kokolo, *Implementing the Agenda for Change - An independent analysis of the 11th EDF national programming: key findings*, Maastricht: ECDPM, September 2015.

**Table 3** - 11<sup>th</sup> EDF Committee contribution keys and financial contributions by Member State

<b>EU Member State</b>	<b>Contribution key (%)</b>	<b>Contribution in €</b>
Germany	20,6	6 278 073 788
France	17,8	5 433 939 212
United Kingdom	14,6	4 477 859 817
Italy	12,5	3 822 429 255
Spain	7,9	2 419 882 349
Netherlands	4,8	1 457 204 507
Belgium	3,3	991 222 306
Sweden	2,9	896 604 897
Austria	2,4	731 402 704
Denmark	2	604 156 077
Poland	2	612 359 140
Finland	1,5	460 362 995
Greece	1,5	459 832 191
Portugal	1,2	365 092 757
Ireland	0,9	286 774 704
Czech Republic	0,8	243 270 097
Romania	0,7	219 078 839
Hungary	0,6	187 477 674
Slovakia	0,4	114 751 370
Luxembourg	0,3	77 817 755
Bulgaria	0,2	66 664 762
Croatia	0,2	68 693 411
Lithuania	0,2	55 145 696
Slovenia	0,2	68 492 071
Cyprus	0,1	34 050 797
Estonia	0,1	26 341 931
Latvia	0,1	35 423 567
Malta	0	11 595 331
<b>Total</b>	<b>100</b>	<b>30 506 000 000</b>

Reported from: Jean Bossuyt, Niels Keijzer, Alfonso Medinilla and Marc De Tollenaere, *The future of ACP-EU relations: A political economy analysis*, Maastricht: ECDPM, January 2016.

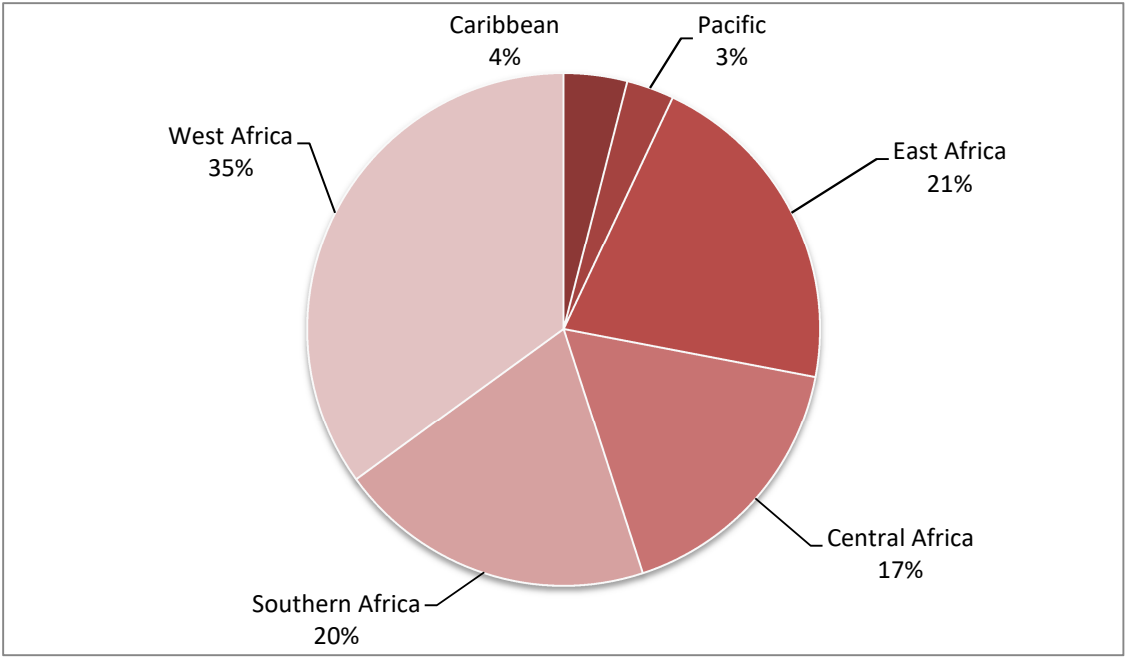


**Table 4 – 11<sup>th</sup> EDF distribution of bilateral A envelopes by income groups**

Income category	11 <sup>th</sup> EDF distribution in € (million)	11th EDF distribution in %
Least developed countries	12,250.80	80.80
Low-income countries	669	4.41
Low-middle-income countries	1,873.30	12.35
Upper-middle-income countries	353.60	2.33
High-income countries	16	0.11
Total	15,162.70	100

Reported from: Alisa Herrero and Anna Knoll, with Cecilia Gregersen and Willy Kokolo, *Implementing the Agenda for Change - An independent analysis of the 11th EDF national programming: key findings*, Maastricht: ECDPM, September 2015.

**Chart 1 – 11<sup>th</sup> EDF distribution of bilateral A envelopes by region**



Reported from: Reported from: Alisa Herrero and Anna Knoll, with Cecilia Gregersen and Willy Kokolo, *Implementing the Agenda for Change - An independent analysis of the 11th EDF national programming: key findings*, Maastricht: ECDPM, September 2015, p. 3.

## ANNEX II – Repartition of European Parliament seats

**Table 5 - Seats allocation in the European Parliament by Member State**

EU Country	Number of seats	EU Country	Number of seats
Austria	18	Latvia	8
Belgium	21	Lithuania	11
Bulgaria	17	Luxemburg	6
Croatia	11	Malta	6
Cyprus	6	Netherlands	26
Czech Republic	21	Poland	51
Denmark	13	Portugal	21
Germany	96	Romania	32
Greece	21	Slovenia	8
Estonia	6	Slovakia	13
Finland	13	Spain	54
France	74	Sweden	20
Hungary	21	United Kingdom	73
Ireland	11	Total EU	751
Italy	73		

Reported from: <<http://www.europarl.europa.eu/meps/en/map.html>>.

## ANNEX III – PSD programmes

**Table 6 - Private Sector Development Programmes currently in place**

Country/ Region	Timeline	Partners' contributions	CDE contributions	Other contributions
West African Economic and Monetary Union (UEMOA)	2012-2014	€ 9.7 M	€ 0.6 M	
Botswana	2013-2015	€ 2.3 M	€ 0.5 M	€ 0.358 M (from Chanel Corporate Foundation)
Cameroon	2014-2016	€ 2.9 M	€ 0.5 M	€ 5.5 M
Republic of Congo	2013-2015	€ 4 M	€ 1.1 M	
Côte d'Ivoire	2014-2016	€ 3.8 M	€ 0.5 M	
Haiti	2014-2016	€ 0.523 M	€ 0.544 M	

Reported from: CDE, "Private Sector Development Programmes (PSDPs)",  
<<https://www.cde.int/en/about/private-sector-development-programmes-psdps>>.

## **ANNEX IV – STABEX and SYSMIN products**

### **List 1 - STABEX products:**

#### a. Groundnut products

- (aa) groundnuts, shelled or not
- (ab) groundnut oil
- (ac) groundnut oilcake

#### b. Cocoa products

- (ba) cocoa beans
- (bb) cocoa paste
- (be) cocoa butter

#### c. Coffee products

- (ca) raw or roasted coffee
- (cb) extracts, essences or concentrates of coffee

#### d. Cotton products

- (da) cotton, not carded or combed
- (db) cotton linters

#### e. Coconut products

- (ea) coconuts
- (eb) copra
- (ec) coconut oil
- (ed) coconut oilcake

#### f. Palm, palm nut and kernel products

- (fa) palm oil
- (tb) palm nut and kernel oil
- (fc) palm nut and kernel oilcake
- (fd) palm nuts and kernels

#### g. Raw hides, skins and leather

- (ga) raw hides and skins
- (gb) bovine cattle leather
- (gc) sheep and lamb skin leather
- (gd) goat and kid skin leather

#### h. Wood products

- (ha) wood in the rough
- (hb) wood roughly squared or half-squared, but not further manufactured
- (he) wood sawn lengthwise, but not further prepared

#### i. Fresh bananas

#### k. Tea

#### l. Raw sisal

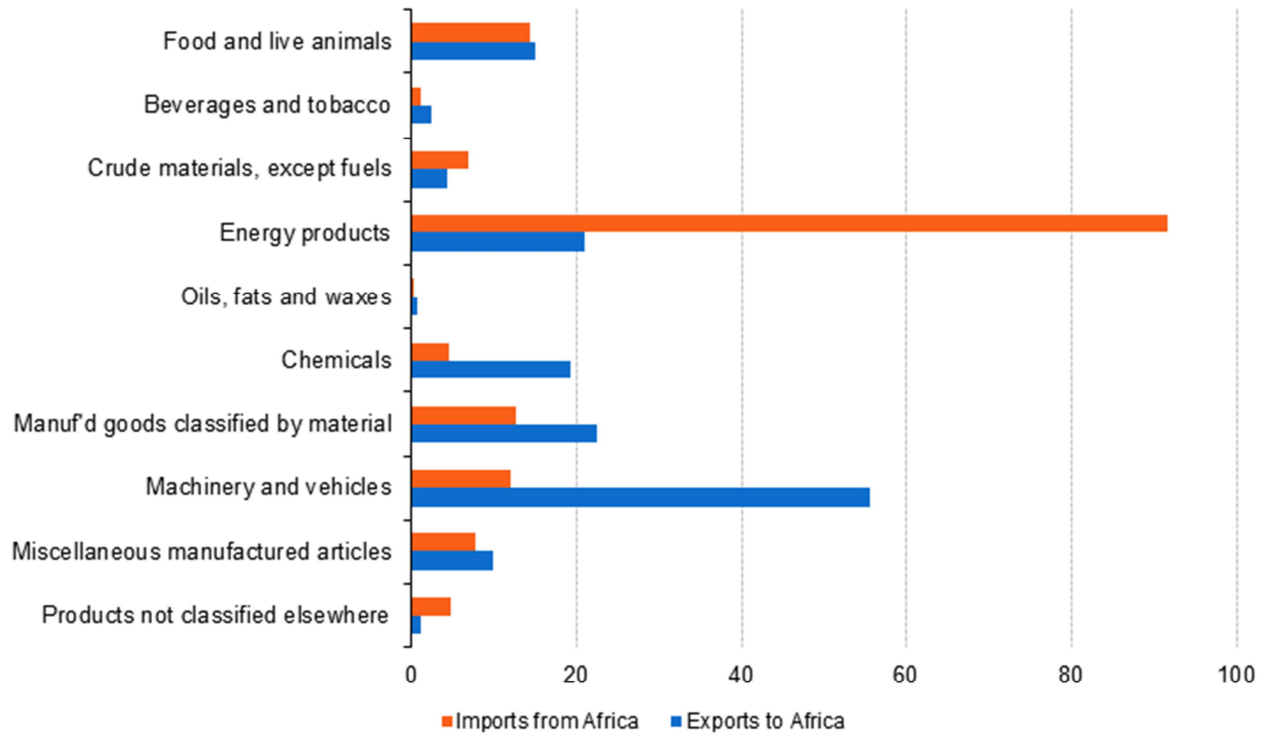
#### m. Iron ore

**List 2 - SYSMIN products**

- a. Copper, including associated production of cobalt;
- b. Phosphates;
- c. Manganese;
- d. Bauxite and alumina;
- e. Tin;
- f. Roasted iron pyrites and iron ore, whether or not in agglomerate form (including pellets), excluding, during the period mentioned in Article 25(2), the cases referred to in that Article.

## ANNEX V – EU trade with Africa

Chart 2 – EU trade in goods with Africa



Reported from “Africa-EU key indicators, <[http://ec.europa.eu/eurostat/statistics-explained/index.php/File:EU\\_%26\\_Africa\\_-\\_EU-28\\_trade\\_in\\_goods\\_with\\_Africa\\_by\\_SITC\\_section,\\_2014.png](http://ec.europa.eu/eurostat/statistics-explained/index.php/File:EU_%26_Africa_-_EU-28_trade_in_goods_with_Africa_by_SITC_section,_2014.png)>.

## ANNEX VI – Art. 96 consultation procedures

Table 7 – Consultation procedures initiated under Article 96 from 2000 to 2015

Country	Start date of consultation procedure	End date of appropriate measures	Reason for invoking art. 96	Measures taken
Haiti	26/09/2000	31/12/2005	Irregularities during elections	-Partial suspension of EDF aid; -Redirection of EDF resources towards civil society and private sector.
Fiji	19/10/2000	14/04/2001	Coup d'état	-New EDF programmes submitted to conditionality (free and fair elections and the appointment of a legitimate government)
Côte d'Ivoire	15/02/2001	30/06/2002	Irregularities during elections	-Limited conditionality
Liberia	23/07/2001	22/02/2002	Lack of freedom of the press and of expression, involvement with human rights violations, corruption	-NIP instalments subject to free and fair elections
Zimbabwe	11/01/2002	20/08/2012	Irregularities during elections and deterioration of human rights and the rule of law	-“Smart sanctions”; -suspension of budget support; -redirection of aid resources to civil society
Central African Republic	22/05/2003	30/06/2005	Coup d'état	-Macro-economic support suspended and made conditional to electoral plan and clearer public finance

<b>Country</b>	<b>Start date of consultation procedure</b>	<b>End date of appropriate measures</b>	<b>Reason for invoking art. 96</b>	<b>Measures taken</b>
Guinea-Bissau	19/01/2004	20/09/2004	Coup d'état	-No suspension of aid; -special funds for supporting transition
Togo	14/04/2004	15/11/2007	Irregularities during elections	-No suspension of aid
Guinea	20/07/2004	14/04/2009	Irregularities during elections	-Partial suspension of new EDF resources; -EDF funds conditional on progress towards free and fair elections
Mauritania	30/11/2005	29/05/2006	Coup d'état	-EDF funds conditional on elections
Fiji	18/04/2007	30/09/2013	Coup d'état	-EDF funds subject to respect to commitments made; -Upcoming sugar allocation conditional on respect to commitments and new governments in place
Mauritania	20/10/2008	06/04/2009	Coup d'état	-New EDF funds submitted to return to constitutional order; -partial suspension of ongoing support
Guinea	29/04/2009	02/12/2013	Coup d'état	-Resumption of debt relief programmes; -EDF resources subject to regime change
Madagascar	06/07/2009	06/12/2012	Coup d'état	-Suspension of budget support; -NAO duties taken over by the EU



Niger	08/12/2009	21/09/2010	Referendum for third mandate of President in view of Presidential elections	-EU took over NAO duties; -partial suspension of aid; -new EDF resources made conditional
Guinea-Bissau	29/03/2011	01/07/2015	Deterioration of human rights and the rule of law	-Suspension of budget support; -partial suspension of EDF projects
Burundi	26/10/2015	Ongoing	Disputed elections and third term	-Adoption of restrictive measures

Reported from Jean Bossuyt, Niels Keijzer, Afonso Medinilla and Marc De Tollenaere, *The future of ACP-EU relations: A political economy analysis*, Maastricht: ECDPM, January 2016.

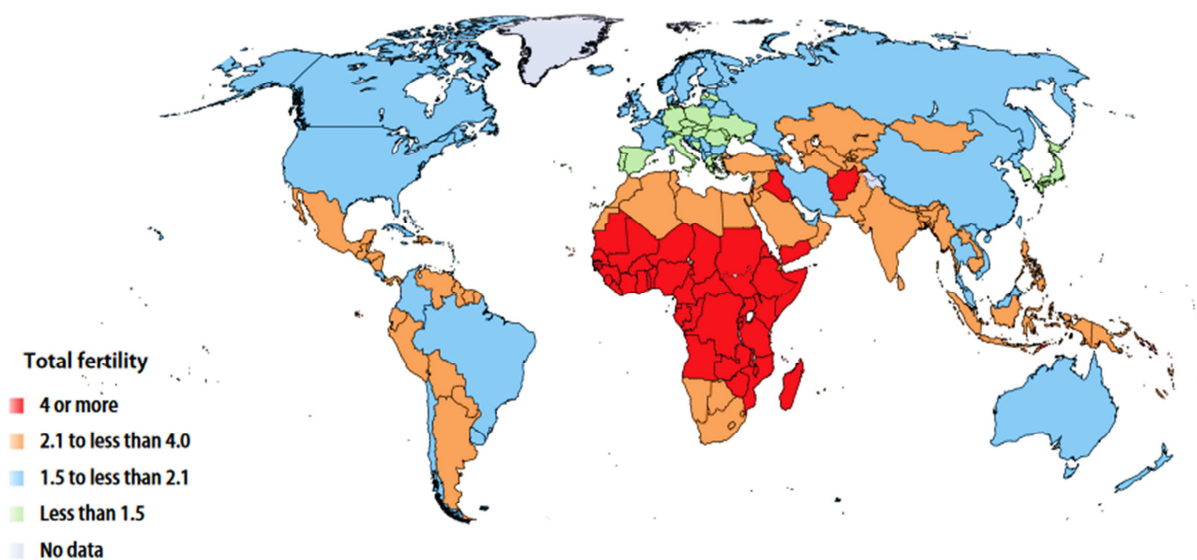
## ANNEX VII – World population prospects

**Table 8** – World population prospects (in million people)

Area	2015 population	2030 population	2050 population
World	7 349	8 501	9 725
Africa	1 186	1 679	2 478
Asia	4 393	4 923	5 267
Europe	738	734	707
Latin America and the Caribbean	634	721	784
Northern America	358	396	433
Oceania	39	47	57

Reported from UN, *World Population Prospects – key findings and advance table (2015 revision)*, New York: UN Division for Social and Economic Affairs, 2015.

**Image 1** - Fertility rate (children per woman) from 2010 to 2015



Reported from UN, *World Population Prospects – Data booklet (2015 revision)*, New York: UN Division for Social and Economic Affairs, 2015.

## **ANNEX VIII – PROs and CONs of EDF budgetisation**

### Argumentations in favour of EDF budgetisation:

- The rules of the EU budget provide for a more transparent management of financial resources and lower administration costs.
- All Member States shall contribute equally to EU instruments and consequently contribution keys would be easier to establish.
- Funds could be allocated to MICs and LICs according to specific procedures and under different financing tools.
- The European Parliament is involved in the administration of resources, thus contributing to the transparency in the use of funds and mitigating the democratic deficit.
- A budget-line for the allocation of ACP development funds could be set to make secure that an amount of money equal to previous EDF is granted.
- Trust funds could allow the flexibility to react to unexpected events and emergencies.

### Argumentations against EDF budgetisation:

- The inclusion of the EDF in the broad MFF risks to reduce the size of the budget.
- Peace Support Operations (PSO's) can be financed only through the EDF, since it is off-budget.
- In the wider EU budget there is not mandate that allows external partners to participate in its programming, as opposed to what happens within the EDF framework where regional projects are planned together with the partner countries.
- The control and attention paid by EU Member States to the use and management of the EDF would be lower if it was to be absorbed in the wider EU budget.

Source: Tina Tindemans and Dirk Brems, *Post-Cotonou: Preliminary positions of EU Member States - Briefing Note No. 87*, Maastricht: ECDPM, February 2016.

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