

Towards a new partnership between the European Union and the African, Caribbean and Pacific countries after 2020

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Common global interests in a multi-polar world

1. To which degree has the partnership been effective in tackling global challenges?

[Note: please find the literature referred to in all questions listed under question 43]

Page 4 of the JCP facilitating this public consultation argues that ACP countries and the EU have a common interest in promoting sustainable management of global public goods (GPGs) and identifies global challenges that impact both ACP and EU countries alike. The dominant means through which the ACP-EU partnership has engaged itself in tackling global challenges is to use the European Development Fund (EDF) to fund cooperation activities managed by different intermediary organisations. The adoption of a dedicated intra-ACP cooperation budget since the entering into force of the Cotonou Partnership Agreement - over 20% of available funding under the 9th EDF, 12% of EDF10 and 23% of EDF11 - has allowed for increasing the scope and breadth of this cooperation. The fact that the intra-ACP budget is 100% financed by the EU and that its activities are often similar in scope and nature to projects financed under the thematic programme for Global Public Goods of the Development Cooperation Instrument however indicates that their relevance to the wider ACP-EU framework is not well articulated.

In addition to the intra-ACP contributions that are co-managed with the

ACP Secretariat, the EU has also used the reserves of the EDF to make dedicated contributions in response to global challenges, including most recently the Emergency Trust Fund for Africa. While the Trust Fund has the potential to make a considerable and relevant contribution to a crucial global challenge, using funds from the EDF to finance an emergency trust fund with the explicit purpose of addressing a European interest, is highly risky and goes against the CPA's provisions that require the EDF to finance long term socio-economic development programmes.

Since its creation in 1975, the ACP has not played a strong role in tackling global challenges through engaging as a group in relevant international fora. This was because the 46 founding states of the ACP desired not to weaken the G77 group which articulated the interests of both ACP and non-ACP developing countries in international fora (Drieghe 2011). Based on the history of the group of states, found through its collective desire to renegotiate and access preferences under the Yaoundé Accords with the EEC, it cannot be seen as having either the mandate or the means to engage in international fora. The large number of ACP states has however frequently raised expectations that it could play such a role. In recent years the EU-ACP Council of ministers adopted joint declarations on Rio+20 (2012) and post-2015 (2014), while the ACP adopted its position for the July 2015 Addis Ababa Financing for Development Conference, all of which worded expectations as to the engagement of the ACP in these fora.

Our analysis shows that the joint ACP-EU and ACP position, as applicable, was articulated in neither of these international negotiations. The JCP acknowledges that despite the strong and ambitious political dialogue provisions of the CPA the partnership has not quite been successful at the international scene.

2. What would be needed to strengthen results in this respect and on which global challenges could the partnership add most value in the future, in the context of the new SDGs framework and in relevant international fora?

As per the analysis under question 1, there is limited potential for strengthening results in this area given the path-dependent nature of ACP-EU cooperation and its cumbersome institutional setup. This setup was agreed under the Lomé I Convention of 1975, itself drawing on earlier institutional arrangements under the Yaoundé Accords, at a time when both the European Economic Community and the ACP were much smaller in number. Only minor changes were made to the institutional setup in the four decades that followed, and as a result the joint institutions played a largely symbolical and ceremonial role.

In a 2013 commentary posted on the Guardian website, Dr Lawrence Haddad draws a distinction between common and collective problems as aims of international cooperation. Common problems concern development issues faced by all countries (e.g. inequality, education) which do not have direct cross-border benefits, while in collective problems concern issues that affect everyone regardless of where they live and require collective action (e.g. climate change, food security). The ACP-EU partnership has delivered tangible benefits with regard to supporting ACP countries in addressing common problems, yet has limited potential in addressing collective problems.

Whereas the ACP-EU partnership and its institutions as we know them today has limited potential in confronting global challenges, there is nonetheless significant scope for cooperation in this area between the EU and ACP countries, as shown in the recent COP 21 negotiations. The EU has already differentiated its cooperation approaches as per the nature of the global challenge at hand, e.g. intensifying collaboration with Africa on migration, while its COP 21 engagement particularly focused on cooperation with Caribbean and Pacific countries. It would thus be both in the interests of the EU and of the African, Caribbean and Pacific countries to enter into more agile and interest-based coalitions to tackle priority global challenges under the 2030 Agenda for Sustainable Development as opposed to using a single cooperation partnership as a one-size-fits-all approach.

Human rights, democracy and rule of law, as well as good governance

3. Have the mechanisms provided for in the Cotonou Partnership Agreement (CPA) (i.e. political dialogue, financial support, appropriate measures, suspension of the agreement) achieved meaningful improvements on human rights, democracy, rule of law and good governance, including the fight against corruption? Should the future partnership do more in this regard, and in what way?

Support for human rights, rule of law, democracy and good governance feature prominently in the EU's relations with ACP countries. Through the EDF (as well as the EIDHR and the thematic programmes of the DCI), the EU is one of the largest providers of aid to support human rights, democracy and good governance in ACP countries.

Evidence of the CPA negotiations, as well as changes introduced in the preceding Lomé conventions show that the increased focus on human rights, democracy and rule of law and good governance were strongly driven by the EU. ACP countries instead preferred the earlier conventions that stressed neutrality and non-interference as main cooperation principles. Although there are important differences between ACP countries, the ACP has across the board showed only limited ownership with regard to the political dimension of the partnership. It has in fact only rarely used the political dialogue clause of the CPA on its own initiative.

At the same time, African countries have further developed their regional provisions and norms to engage on reforms related to democracy and human rights (i.e. African Charter for Democracy, Elections and Governance), which potentially provides more relevant entry points for EU-Africa cooperation in the future.

In general terms, even if EU-ACP cooperation on the implementation of governance reforms is difficult and the effect of political dialogue and development interventions in terms of facilitating these is not straightforward, the EU should still continue fostering cooperation in these fields, even with the most difficult partner governments. Research findings show that better governance is positively correlated to the provision of public goods. Support for democracy, human rights and good governance reforms is thus not only an objective in itself, but can also have a positive effect on socio-economic development in the longer run.

Our research on the practice and content of Article 8 political dialogue shows that dialogue takes place more frequently and the quality has improved since the mid-2000s and particularly since the establishment of the European External Action Service. However, despite attempts to strengthen the dialogue, the quality and intensity varies considerably across countries. The dialogue is an important instrument to create trust between the EU and ACP governments and contributes to better understanding each others' positions. Issues of human rights, good governance and democracy play a prominent role in the dialogue with many countries, even though it is often perceived by ACP governments as unidirectional processes in which they were invited by the EU to be

assessed on their 'performance' in terms of governance and human rights. We argue that after the expiry of the Cotonou Agreement the political dialogue with the ACP States, their Regional Economic Communities and other regional bodies should maintain prominence and be further strengthened. The legal binding nature of the dialogue is an asset, though such a binding agreement should not necessarily be agreed with the ACP as a collective but could also be adapted to relations with specific groups of countries.

A future partnership or other forms and formats of cooperation should not be overly determined by existing mechanisms and provisions on these matters. The EU should not abandon its principles even though the focus of its cooperation partnerships is likely to shift to relations based on mutual interests. It should not be forgotten that when the principles concerned relate to about moral authority, and that the EU cannot have moral authority if other states do not believe that the EU lives up to the same principles it espouses. So the EU has to be seen to defend democracy, human rights, accountability and good governance whenever it is challenged to do so.

4. Has the involvement of local authorities and non-state actors (i.e. civil society organisations, the media), national parliaments, courts and national human rights institutions in the partnership been adequate and useful to promote human rights, democracy and rule of law as well as good governance? Could they contribute more and in what way?

The CPA was innovative in recognising non-state actors, national parliaments and - after the 2010 revision - local authorities and regional organisations as formal actors of the partnership. Their participation in ACP-EU cooperation is however largely facilitated by - and therefore dependent on - EDF financing, which in case of some NSAs also blurred responsibilities as many also became 'implementing channels' for EDF-financed programmes and activities. While most efforts to involve these actors as recognised in Article 4 of Cotonou were made by Europe, as well as all funding to facilitate their involvement, different ACP states introduced new legislation during the past and present decade that has reduced the space for such actors. At the same time many ACP states witnessed the emergence of increasingly vocal media actors, increasing use of social media and novel forms of domestic accountability. This heterogeneous picture shows that this change process goes at its own pace in each ACP state and was essentially not in accordance with Cotonou's envisaged 'one-size-fits-all' approach to partnership. The EU should in its future cooperation with ACP states take their diversity as a starting point and develop a more diversified and flexible approach to supporting reform dynamics.

Peace and security, fight against terrorism and organised crime

5. Are the provisions on peace and security in the CPA appropriate and useful and has the balance between regional and ACP involvement been effective?

The ACP-EU partnership offers its members opportunities for dialogue on peacebuilding and conflict prevention, and funds for peace support mechanisms and operations in Africa are drawn from the EDF through the African Peace Facility (APF). In practice, however, the ACP has no real mandate in this area and the area was retrofitted into the CPA mainly for APF funding purposes during its second review in 2010. In practice, most engagements in the field of peace and security are conducted through other institutional frameworks: APF funds are channelled through the AU and the RECs rather than the ACP institutions. The establishment of the Pan-African Programme, funded by the DCI with the goal of strengthening the Joint Africa-EU Strategy (JAES) - especially its peacebuilding component - indicates that the ACP secretariat is not the preferred forum on either side of the partnership for this kind of cooperation.

As such, the ACP is more seen as a legal loophole than as a partner in peace and security. Bartelt (2012) also notes that the 2010 revision of the CPA was used to formally recognise the African Union as an actor of the partnership with a main role on peace and security. It should be concluded from this that there is no mandate for the existing partnership in peace and security and other 'hard' foreign policy topics such as the fight against terrorism and organised crime.

6. Should the future partnership provide for more effective joint action on conflict prevention, including early warning and mediation, peace-building and state-building activities, as well as on tackling transnational security challenges? Should this be done in the EU-ACP context?

As per our answer to question 5, this does not mean that the CPA has no added value as a framework for mechanisms that encourage confidence-building and peaceful co-existence. What it does mean is that it should not be directly involved in processes that are better managed by other cooperation frameworks, such as the JAES. The current practice of European financing for the African Peace and Security Architecture (APSA), in part through the EDF, is not financially sustainable in the long run, and its legitimacy is increasingly being questioned in Europe. The African Peace Facility should be replaced in the interim by a new trust fund for financing the APSA and thus providing the public good of peace and security on the African continent. This Fund should be managed by the African Union, and should aim in the medium to long term to provide an opportunity for African countries to step up and cover the costs of security provision.

7. How effective has the partnership been in promoting sustainable and inclusive economic development?

The questions posed to explore the partnership's contribution to sustainable and economic growth are difficult to answer because especially the sustainability of the growth achieved in ACP countries remains poorly studied. When it comes to economic growth only, tremendous growth has been achieved by some ACP countries - while the bulk of the world's Least-Developed Countries nonetheless remain concentrated in the same group of 79 states.

As per article 1 of the CPA, ACP-EU cooperation has been geared to an overall 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." The partnership objectives thus particularly prioritised the economic dimension of development over the social and - particularly - the environmental dimensions and largely assumed that ACP countries could grow themselves out of poverty. At a macro level ACP states were in fact successful in this regard: in the year 2000 a total of 44 states were Low Income Countries (LICs), 30 were Middle Income Countries (MICs) and 1 was a high-income country (HIC). In 2015 this had changed to 26 LICs, 43 MICs and 7 HICs. It is unknown to what extent this growth can be attributed to ACP-EU cooperation.

8. Taking into account the new SDGs framework, should the future partnership do more in this respect, and what?

While EDF funding at the national and regional levels has particularly prioritised economic development (with the regional programmes increasingly focused on EPA implementation under EDF11), the intra-ACP funds have provided more funding to the social and economic dimensions of development. Existing cooperation foci are however at odds with the Sustainable Development Goals, first and foremost at the overall level as cooperation efforts remain oriented on EU financial and technical inputs to development in ACP states, thus assuming that EU states have attained an end state of development that ACP states have not. The new universal and transformational agenda requires a change from assistance to genuine cooperation between the EU and ACP states, and on the EU's side more ambitious approach to operationalising its commitment to Policy Coherence for Sustainable Development in its full range of public policies. There is substantial scope and opportunity for cooperation in this regard between the EU and ACP states, yet there is limited scope in the current cooperation framework and its current institutions, as indicated under Question 1.

9. How effective has the partnership been in supporting macroeconomic and financial stability? In which areas would there be added value in ACP-EU cooperation on macroeconomic and financial stability?

Since the CPA entered into force the EU has strongly invested in supporting macroeconomic stability by means of sector and general budget support. A synthesis of seven country evaluations of General and Sector Budget Support, including four EDF-recipient ACP countries and South-Africa, found that in the ACP countries “(...) the increased flow of funds resulting from budget support has been the principal contribution, supporting a considerable improvement in the coverage and utilisation of services - particularly in education and health. There have also been improvements in macroeconomic performance, a significant strengthening of PFM systems and some gains in transparency and oversight, as well as in the legal and institutional framework for fighting corruption” (Lawson 2014: 9). This evidence of the positive effects of ACP-EU cooperation on macroeconomic and financial stability refers to budget support operations funded under the 9th and 10th EDF. As part of the preparation of the EU’s future negotiation position, the Commission should consider to use its impact assessment to examine emerging experiences with budget support operations under the 11th EDF, following the budget support policy changes as endorsed by the Council in May 2012.

10. How effective has the partnership been in improving domestic revenue mobilisation, in promoting fair and efficient tax systems and in combatting illicit financial flows? Would there be added value and more efficiency in stronger ACP-EU cooperation on these matters?

Little evidence is available of the contribution through ACP-EU cooperation to domestic resource mobilisation and illicit financial flows, the former due to the absence of independent evaluations and the latter because financial legislation remains the terrain of sovereign decision making for both the EU and ACP. ACP-EU interaction on illicit financial flows has been confrontational as opposed to seeking joint initiative and action. In June 2015 the EU published a document identifying 23 ACP countries as tax havens, among which 14 Caribbean countries, 4 African and 5 Pacific Countries, while not including any of its own member states in this list. The publication of this list shortly before the 2015 Summit of the EU and Community of Latin America and Caribbean states (CELAC) was not well-received by especially Caribbean missions in Brussels. The ACP trade ministerial meeting adopted a resolution calling for the withdrawal of the black list, which was not taken up by the EU. The EU has since however downplayed the list, saying it merely reflected the experiences of some member states.

11. Has the partnership been able to contribute substantially to mobilising the private sector and attracting foreign direct investment?

A specific institution, the Centre for the Development of Enterprise (CDE), was empowered by the CPA to play a strong role in supporting ACP private sector actors. The EU and ACP agreed in June 2014 on the orderly closure of the CDE, and little is known of the effectiveness of the cooperation activities it managed. The relatively centralised approach to funding private sector activities also needs to be reconsidered, also in view of today's technology that allows private sector organisations to interact from distance without the need of physical travel. As per our answer to Question 12, the EU is likely better placed to contribute to the enabling environment for private sector activities as opposed to directly working with the private sector. An exception is the Investment Facility of the European Investment Bank, which the European Council of Auditors recently assessed as providing an added value in terms of relevance and coherence with other instruments. It would however be advisable for the EU to change the European Investment Bank's mandate to allow the Bank to also use its Facility for working with the private sector in non-ACP states.

12. How could the potential of the EU and ACP private sector be better harnessed? What should be the main focus of EU and ACP private sector cooperation in a post-Cotonou framework, and what might be the role of ODA in this?

Analysing the EU-ACP track record in the area of private sector engagement through dedicated EDF-financed interventions is not straightforward, because of the absence of conclusive evaluation evidence on the manner. An independent evaluation commissioned by the EU notes that the EU could do more to actually involve the private sector when drawing up interventions, with the present practice largely involving designing such interventions and then 'offering' them to the private sector without much prior consultation. The evaluation moreover found that the EU was not so much well-placed to cooperate directly with the private sector at the micro-level, but instead has contributed to a better enabling environment at the macro level (ADE 2013: III). As per the evaluation evidence it would be advisable for the EU to focus its ODA resources after 2020 towards continuing to support the macro-environment in ACP countries.

13. In this setting, what opportunities do you see for the new, digital economy?

There is considerable potential for increasing international cooperation between the EU and developing countries in the area of the digital economy. There thus also potential for cooperation with ACP states, but this potential is not intrinsic to the framework in which cooperation has been pursued in the past. The digital economy that has contributed towards more opportunistic and issue-driven international cooperation that cuts across existing regions and groupings, including the ACP Group of States. EU support in this field should thus not be targeted at or otherwise limited to a specific group of developing countries but target all developing countries.

14. To what extent has the partnership been able to contribute to increase agricultural development and trade?

To our knowledge there is little research and evaluation evidence on the partnership's contribution to agricultural development and trade. The implementation of the food facility between 2008 and 2011 has contributed to increasing the profile of agricultural development in ACP-EU cooperation, in line with the priorities under the EU's agenda for change, and the results of recent interventions under EDF 10 need to be systematised to learn about what has been achieved. As for cooperation results in the area of trade, little can be said here as the EU's own evaluations have been restricted to trade-related development assistance. It can only be reviewed in time whether the EPAs of varying scope as well as unilateral EU trade preferences schemes proved an effective replacement of the Lomé trade preferences system, of which the ineffectiveness has been well-established (See also question 15 on trade).

15. What has been the contribution of the partnership trade preferences to the integration of ACP countries in the world economy and to its development goals?

EU member states have had strong interests in accessing ACP countries' natural resources and primary products for hundreds of years. This is likely to remain important even as many other aspects of the relationship change. Africa is an important source of minerals, timber and increasingly energy. The Pacific is important for European fisheries. Meanwhile, access to natural resources is subjected to increased competition from emerging actors. The Lomé trade preferences have been criticised for 'locking in' most ACP countries in particular modes of production and export, thus limiting trade diversification deemed essential for economic development, yet at this point in time it is not possible to determine to what extent the (interim) EPAs and the non-Cotonou based Everything But Arms scheme for LDCs have helped to change the direction.

16. Is there still a need for specific provisions on trade cooperation in the post-Cotonou framework, also taking into account the ACP countries which have not signed an EPA? If so, what could/should they cover?

This question touches on the issue whether it matters for the EPAs' validity if the Cotonou framework remains in force or not. As such the question is hard to answer given that - to our knowledge - the answer depends on a treaty law analysis that is yet to be conducted. It will depend on whether the interpretation of the relevant EPA provision leads to the conclusion that the Cotonou provision is incorporated by reference, or whether it is incorporated by reference only to the extent that it is still in force. In the latter case the concerned EPA provisions would have a dead link. The answer would depend on the wording of the EPA provisions referring to Cotonou, which tend to be different from one agreement to the other, as well as political considerations of the signatories.

Human and social development

17. Has the partnership delivered on its human development objective in an effective and efficient way, in particular on poverty eradication, and also concerning gender equality and empowerment of women? How could it be improved?

Given that the partnership's human development objective does not provide an unambiguous 'end-point' for human development, it is unclear to what extent it has done so either effectively or efficiently. What is clear though, as shown from available MDG statistics covering the period 2000-2015, is that important progress has been made in many ACP countries in this area, and it can be assumed that ACP-EU cooperation - and particularly EDF-financed interventions - has been one of many useful factors. It is advisable to continue the current focus on human development in future cooperation arrangements and to further invest into finding out the specific contribution made through the EDF and how its effectiveness and efficiency could be increased. This is not unique to the EDF: a synthesis study of all other EU external cooperation instruments showed that while evaluations provided evidence of what was done and achieved through activities financed, an analysis of how this contributed to the 'global impact' defined for each instruments was missing (Mackie et al 2010: v). For future cooperation, further investments should be made in better linking ex-ante and ex-post evaluations, as well as establishing clear baselines and targets for human development.

18. Taking into account the new SDGs framework, what are the main challenges related to human development that the future partnership should focus on?

As for the main challenges related to human development that the future partnership should focus on, reference can be made to the next section on migration and mobility. Facilitating legal migration between the ACP - Africa in particular - and the EU is seen as a key contributor to human development (ERD 2013), yet the EU's restrictive policy instead promotes irregular migration and disincentives circular migration that would potentially be in both groups' interests.

Migration and mobility

19. Has the partnership been a useful vehicle for discussing migration issues and has it positively contributed? Has Article 13 CPA been fully applied?

The partnership has not engaged in a satisfactory dialogue on this issue of core interest in both Europe and sub-Saharan Africa. Rather, there has been tension between EU and African countries. African countries want to make sure that migration contributes to development (remittances, brain gain, etc.), but the EU wants African countries to comply with re-admission and control measures. The lack of consensus was shown in the failure to agree on a revision of the article during the 2010 review of the CPA. This was mostly because the EU's request to make the CPA more operational as regards the readmission of 'illegal migrants' was not acceptable to the ACP (Bartelt 2012). The parties instead issued a joint declaration in which they agreed to strengthen and deepen dialogue and cooperation in the area of migration, but in recent years no considerable progress was made.

The recent Valetta summit and earlier engagement through Africa-EU summits provide a better basis for the EU to continue cooperation and dialogue with African states. The AU reportedly declined to discuss Article 13 at the Valetta Summit; no ACP Secretariat officials were present in Valetta and the ACP Group had not been consulted in the process of preparing the EU's Emergency Trust Fund that was launched at the summit that is paid from the EDF. Dialogue on legal migration with the Caribbean and Pacific can logically be guided by the existing regional cooperation frameworks. Neither the EU's joint strategy with the Caribbean, nor the Union's strategy towards the Pacific specifically identify migration as a key topic for cooperation. The open-ended and issue-driven approach to cooperation and the broad orientation of the political dialogue would however allow for this issue to be prioritised in the future.

20. Should a future partnership do more in this regard, and on which particular aspects should it focus (legal migration and mobility, addressing root causes of migration, return and readmission, tackling human trafficking and smuggling, international protection)?

Although there is still a legal mandate for cooperation in the area of migration in the ACP-EU framework, this cooperation is currently pursued through cooperation between the EU and the African Union. The EDF is the largest source of funding for the Trust Fund found to finance the bulk of actions under the Valetta Action Plan, yet its emergency nature means that the EU should already launch reflections now as to how to finance EU-Africa cooperation on migration after 2020. The emergency nature also reflects a policy deficit on the side of the EU, and it is only after making progress in an EU-wide migration policy framework and progress in facilitating legal migration that it would be a credible partner to Africa on migration.

A stronger political relationship

21. How effective has the political dialogue been and at which level is it the most effective: national, regional and through the joint EU-ACP institutions? Should the scope of political dialogue be widened or narrowed?

Research evidence indicates that the dialogue has been mostly effective at the bilateral level between the EU and individual ACP states, and least effective at the level of the joint ACP-EU institutions where interaction has been symbolical whilst failing to attract ministerial level participation. The latter joint institutions, including the Joint Parliamentary Assembly, are of unclear added value yet take up considerable resources and more importantly cooperation energy. Time spent by EU and ACP representatives in relatively static and formalised processes can more usefully be invested in more pro-active and interest-driven cooperation. Our research indicates that dialogue at the bilateral level between the EU and individual ACP countries has improved over the past few years, even though the quality still seems to vary considerably across countries. The dialogue is an important instrument to create trust between the EU and ACP governments and contributes to better understanding each others' positions. After the expiry of the Cotonou Partnership Agreement in 2020, dialogue should maintain prominence and should be further strengthened. The legally binding nature of the dialogue seems to be seen by the EU as an important asset of the dialogue, yet is no guarantee: the EU has a strong political relationship with countries not under the Cotonou framework - and thus with no legally binding dialogue - while it has a very troubled relationship with some ACP states that a legally binding dialogue cannot rectify. It is the quality of the relationship that determines the use of cooperation agreements, as opposed to the quality of cooperation agreements determining the relationship.

22. Would a stronger involvement of EU Member States, associating their bilateral policies and instruments to the political dialogue at national level, enhance the dialogue's effectiveness and efficiency?

A stronger involvement of EU Member States at the national level would in principle potentially increase the efficiency of the political dialogue from a European perspective, i.e. being able to jointly suspend or redirect cooperation programmes would increase leverage, but given the asymmetrical nature of the political dialogue it is unclear whether its effectiveness would increase in the process.

23. Has the fact that the agreement is legally binding been instrumental to its implementation as compared to other regional partnerships based on political declarations?

Systematic comparison to other dialogues is difficult because of lacking data/access to information.

The EU and ACP governments should make a joint analysis of the dialogue ahead of the expiry of the Cotonou Partnership Agreement in 2020. This could strengthen ownership particularly on the African side and give more insights in the interests of African governments in the dialogue, as a means to promoting genuine joint dialogue.

In particular in relation with the wealthier ACP countries, the EU would need to design the dialogue more in a way that it is attractive for partner countries. Experience from the Joint Way Forward could provide insights in this regard. Political dialogue held at the national and regional level with the RECs should be linked more systematically. The dialogue should be used more prominently to exchange on EU and ACP positions in international organizations and negotiations.

Coherence of geographical scope

24. Could a future framework be usefully opened up to other countries than the current members of the ACP Group of States? Which countries would that be?

The EU should use the opportunity of the post-Cotonou negotiations to push for discontinuing the current situation where EU development policy discriminates between ACP and non-ACP states. To inform its position, the EU should take its various ongoing reform processes as a starting point, including the Global Strategy, the reform of the Neighbourhood strategy and the upcoming Communication on "Next steps for a sustainable European future" that should outline the EU's response to the 2030 Agenda for Sustainable Development.

25. What kind of framework should govern EU and ACP relations? How could an ACP-EU successor framework relate to the more recent EU regional partnerships with Africa, Caribbean and Pacific States? Could a future ACP-EU framework include distinct partnerships with regional partners?

In view of the EU's efforts to promote regional cooperation and integration in ACP regions, a possible ACP-EU successor framework - as one possible outcome of the negotiations - would from an EU perspective have the potential of reinforcing the regional partnership that the EU itself has initiated with Africa, the Caribbean and Pacific between 2005 and 2011. It would be an awkward move for the EU to first take dedicated initiatives to increase the profile of cooperation at the regional level, only to subdue these again in renewing an ACP-EU framework anchored in cooperation at the bilateral level with individual states.

26. Is there scope for building in more structured relationships with Asia, Latin America, the Middle East and North Africa?

The CPA already set in motion this reform process and the EU should desire to continue on the path that it laid out in the late 1990s. Based on the EU's 2003 Communication on the budgetisation of the EDF and the 2004 proposal for an instrument for development and economic cooperation, the EU should seek to include cooperation with the ACP in an enlarged DCI instrument under the next MFF. In addition to the geographic funding, the enlarged DCI could foresee specific funds to support regional integration and region-to-region cooperation, i.e. with Africa, Asia and Latin America.

If the ACP Group would agree to reorient the mandate of their Secretariat, which as per the Georgetown agreement services the organs of the group (i.e. Committee of Ambassadors, Council of Ministers and Summit), then the EU should provide a modest start up fund to support its institutional transformation into a body no longer premised on the existence of an ACP-EU cooperation framework.

Cooperation tailored more towards groups of countries with similar development level

27. Is the current system of allocation of development resources, based on need and capacities as well as performance, sufficient for channelling funds towards those countries where the highest impact can be obtained? Should allocation of resources continue to prioritise countries most in need, including fragile states?

Due to the contractual nature of the Cotonou Agreement, a reduction of EDF allocations at the level of individual ACP states (i.e. their national indicative programmes) will have to be mutually agreed by the EU and the ACP. This is the main reason why the debate on differentiation (as graduation under the Agenda for Change) has so far mainly focused on countries in Latin America, Asia and Central Asia, the Gulf region and South Africa that are funded by the Development Cooperation Instrument (DCI). Within the ACP group, differentiation has been established with regards to volumes of aid, meaning that more developed countries should receive less ODA than LDCs and other LICs of the group. Following the trend initiated by the 10th EDF, the majority of funds of the 11th EDF is indeed targeted at LDCs and LICs (85% of the 11th EDF) (Koch 2012; Herrero et al 2015).

A first key challenge for the EU will thus be to implement the full differentiation principle (incl. graduation) after 2020. This however also implies the preparation of this graduation process already now, something the EU clearly failed to do under the DCI. It implies discussions with ACP partners about the future of the cooperation (incl. and beyond development cooperation) and a clear offer from the EU side (incl. other DGs and member states). This way, the potential 'resistance' of UMICs to graduation can be addressed pro-actively. The 2030 Agenda for Sustainable Development provides a potentially interesting framework to engage with UMICs, but requires investments by both the EU and the countries in concretising mutual cooperation interests and clarify expectations. For the EU, it will likely also require increasing the proportion of MFF Heading 4 that cannot be reported as ODA.

Should this trend to focus the EU's geographic ODA mainly on the poorest countries continue? A too simple answer would be 'Yes'. In particular UMICs of the ACP group should be able to finance their own development. Moreover, the EU will continue to offer tailored support to the remaining development challenges through thematic instruments and blending. The more difficult part of that question is what ODA for LDCs and LICs should be spent for. In the current political climate, a trend to spend aid largely on security matters and migration is the greatest risk. A related risk is that the EU shies away from political engagement and criticism of authoritarian regimes (which should also lead to reduced bilateral government-to-government aid) who play a lead role in security and migration issues.

28. What kind of cooperation could help to cover the specific needs of more developed ACP countries with a view to attaining more equitable and sustainable growth?

This question cannot be answered in a straightforward manner. There is no one type or mode of cooperation towards richer ACP states to support them in attaining more equitable and sustainable growth. They may find themselves in the same World Bank income group classification but face highly different challenges.

Strengthen the relationship with key actors

29. Has the current model of stakeholder engagement been conducive to attaining the objectives of the partnership in an efficient way? Which actors could play a more significant role in the implementation of the partnership? How could this be addressed?

Questions 29 and 30 solicit views on the role and experiences of different actors in the cooperation framework. Articles 4 and 6 of the CPA define the main actors of the partnership and their respective roles. The actors concerned are non-state actors (including civil society and the private sector), regional organisations and the African Union, ACP national parliaments and local governments. Analysing their involvement and its evolution is not straightforward due to the absence of a clear baseline on their level of participation and engagement in ACP-EU cooperation at the time that the CPA was signed. The EU has also refrained from commissioning independent evaluations to assess the process of ACP-EU cooperation with regard to the participation of the actors concerned, instead it has restricted to evaluations evaluating their performance as a 'channel' for EDF funding. What is clear though is that while the ACP side co-funds participation of governmental stakeholders and the ACP Secretariat, the participation of non-governmental actors is entirely EU funded. It is the EU that funds concrete projects further intra-ACP cooperation, but no such contributions have been collectively made by the ACP states. The assertive stance of the EU approach in the early stages of the EPA negotiations and the absence of a clearly articulated development dimension in its negotiation mandate moreover may have had the effect of alienating actors from the partnership that they may earlier have regarded positively.

30. What could be done to promote effective and efficient involvement of both international and domestic private sector, civil society, social partners and local authorities in the partnership?

See answer to Question 29 (both questions addressed jointly)

31. Should the partnership be open to new actors as referred above?

Questions 31 and 32 are not straightforward to answer in an evidence-based manner, since they are of a speculative nature and are premised on the continuation and reinforcement of the ACP-EU framework. As such they prejudge the outcome of the negotiation, but they also invite opinions that only the ACP Group itself is in a position to answer. The JCP does not clarify what is meant by 'associated members' or 'observers' to the partnership, although such a membership informally exists in Cuba that is a member of the ACP Group that has not signed the CPA. With virtually all countries in the three regions (i.e. A, C and P) included with the exception of Northern-African countries, adding further states would necessarily enlarge the geographic coverage of the group. At a small scale this is possible, though, e.g. East Timor joined yet geographically is seen as part of Asia.

32. In this regard, should the possibility of opening up the partnership to 'associated members' or 'observers' be considered?

See answer to Question 31 (both questions addressed jointly)

33. How could a new framework promote triangular and South-South cooperation, including the increased involvement of ACP States as development actors in support of other ACP countries?

On a theoretical level, one would agree with the suggestion made that some ACP states could become development actors within the context of a partnership framework with the EU. In the Lomé I Convention negotiations, however, Europe rejected Nigeria's suggestion to contribute to the EDF and gain access to the fund's governance system, which the EEC rejected (Drieghe 2011: 52). It is moreover difficult to theorise how one cooperation partnership framework should cater for two types of cooperation, given that South-South Cooperation providers have rejected soft governance frameworks for development cooperation towards and following the adoption of the Busan Partnership for Effective Development cooperation in 2011. Nonetheless, these answers relate to past experience whereas the question describes a different mode and approach to cooperation: it is still worth proposing if the EU would deem it opportune to include it in its post-Cotonou negotiation position.

Streamline the institutional set-up and functioning of the partnership

34. Has the joint institutional set-up (with the ACP-EU Council of Ministers, the ACP-EU Committee of Ambassadors, and the Joint Parliamentary Assembly) been effective in debating and promoting common views and interests and in providing political guidance and momentum to the EU-ACP partnership and the implementation of the CPA?

The joint institutional set-up has been largely ineffective in furthering the aims outlined in question 34. This is no surprise since the institutional set-up has only gone through minor changes after being created under Yaoundé I in 1963, mainly with a view to accentuate that the parties sought to promote cooperation on an equal footing. There are four reasons why the joint Committee of Ambassadors and Council are of limited added value: (1) the text of the Conventions (and currently Cotonou) is very detailed and leaves little room for manoeuvre, (2) the three joint institutions have little decision-making power, e.g. ACP requests to get observer status on the EDF committee were not granted by the EU; (3) the EU consistently sends low level delegations to the ACP-EU Council, with typically the only EU minister present representing the rotating Presidency, so that participation is not conducive to a political dialogue. Many ACP states also struggle to ensure ministerial participation at these levels. Finally, (4) the meeting fora were put in place in 1963 with 18 newly-independent African states and the EEC. Today similar meeting fora cater for 79 ACP states and 28 EU MS, which clearly is too large a number for a dynamic exchange.

The JPA currently seeks to play three roles: 1) advocating the empowerment of ACP national parliaments; 2) promoting democracy and human rights; and 3) monitoring the implementation of Cotonou (Delputte 2012: 258). Its contribution to fulfilling the three above roles is limited due to its actual capacity of a consultative body without legislative powers. ACP and EU participants moreover differ in what importance they attach to each role, with ACP participants valuing Cotonou monitoring over the other two. In addition, the absence of political groups makes that parliamentarians - especially those from ACP countries - essentially behave as government representatives (Ibid.: 258, 259).

35. What is the added value of the joint ACP-EU institutions as compared to more recent regional and regional economic community frameworks for dialogue and cooperation?

Compared to the EU-ACP framework, the institutions of the partnership between the EU and Africa show a higher potential to addressing common challenges and promoting joint interests, in particular the institution of the joint summit for heads of state. The high attendance on both sides of the partnership shows that the parties 'vote with their feet' in testifying to the importance of the cooperation framework. Regional frameworks for the Pacific have been more low-profile, but the region was eager to collaborate with the EU on an issues-based basis, including in the preparation of COP21 through the AOSIS grouping. The Caribbean region has shown to be more interested in deepening trade relations, and the EU should consider further deepening the institutions set up in the context of the EU-Cariforum EPA.

36. What institutional arrangements would most effectively help address common challenges and promote joint interests?

See answer to Question 35 (both questions addressed jointly)

37. Should a higher degree of self-financing of this functioning (ACP-EU Joint institutions and ACP secretariat) by the ACP States be required?

As per our analysis to questions 34-36, increasing ACP co-financing of these institutions - as well as decreasing the EU's contribution to the running costs of the ACP Secretariat - cannot be expected to deliver many effectiveness gains. The creation of additional EPA joint institutions to allow for dialogue at similar levels as all-ACP joint institutions (i.e. civil servants, ministers and parliamentarians) further erodes the added value of the latter. This is mostly the case for the Caribbean and West-African EPA, since EPAs with other groupings only introduce institutions catering to technical and ministerial dialogue. Beyond the EPAs, the EU has since 2006 entered into regional frameworks for cooperation and dialogue by means of the 2006 Strategy for EU relations with the Pacific islands, the 2007 Joint Africa-EU Strategy and the 2010 Joint Caribbean-EU Partnership Strategy. It seems more opportune to invest the EU's resources in strengthening and increasing interaction and dialogue at the regional and sub-regional level and discontinue the joint ACP-EU institutions in existence today.

Better adapted and more flexible development cooperation tools and methods

38. Is there added value in having a dedicated financing instrument in support of the ACP-EU partnership? If so, what are the reasons and how would it differ from other external financing instruments funded by the general budget of the Union? Is this instrument flexible enough, especially to address crisis situations? Can this instrument be deployed differently?

As a result of the harmonisation of financial procedures and the introduction of the Common Implementation Regulation under the 2014-2020 MFF, the EDF now largely appears a duplicate of the Development Cooperation Instrument with a different contribution key and more intergovernmental voting procedure under the EDF Committee. Through the EU's strong promotion of aid and development effectiveness since the 2005 Paris Declaration on Aid Effectiveness, as evidenced by the 2005 EU Consensus on Development in which the EU identified additional commitments, the aid effectiveness principles that have long characterised the ACP-EU Conventions have now been introduced in other EU funding instruments. As a funding instrument, the EDF has advantages by not being subjected to the 'annuality' principle of the EU's budget that allow for greater predictability. This was one of the stated reasons why the UK considers the EDF a better performing development instrument compared to the EU's budget instruments, though the main reason for the differing performance is the concentration of LDCs in the ACP group that gives for a stronger poverty focus of the EDF. The EDF also comes with disadvantages, which include the slow processes of ratification and programming - with the intra-ACP budget and several National Indicative Programmes under EDF11 still not having been concluded at the time this contribution was finalised - as well as the high transaction costs through maintaining the ACP and join ACP-EU institutions which development instruments for other EU regions do not require. All in all, the arguments the European Commission presented in favour of budgetisation in 2003 remain valid and, from a development effectiveness perspective, its 2004 proposal for an enlarged Development Cooperation Instrument that would replace the EDF and allow for geographic and thematic cooperation with all developing regions remains a better option to the current situation of fragmented development funding to ACP and non-ACP countries.

39. What is the added value of the EDF's co-management system involving national authorities in the programming and management of aid programmes, as compared to other EU cooperation instruments in non-ACP countries?

Whereas the CPA has promoted greater result-orientation through introducing a 'performance-based partnership', with a pivotal role played by mid-term reviews as a means to reprogramming EDF resources based on a joint review, the JCP incorrectly identifies partnership and ownership as 'Cotonou principles' as these have characterised the convention since Yaoundé I of 1963. The function of the National Authorising Officer (NAO) was introduced under the Lomé Conventions in order to have a dedicated ACP counterpart to the EU Head of Delegation to translate these principles into practice. Research however shows that the NAO, and the RAO as her/his regional counterpart, largely focus on administrative and financial tasks while having few to no involvement in the programming, preparation and appraisal of cooperation programmes. The EU did provide financing of dedicated technical assistance programmes through the EDF in support of the NAO/RAO's role, yet these technical assistance programmes largely focus on compliance functions towards the EU Delegation (Frederiksen et al 2007). Already in 2001 the EU Court of Auditors recommended that "Technical assistance for beneficiary administrations should be clearly distinguished from the technical assistance that helps EDF authorising officers and the Commission Delegations to fulfil their obligations". This recommendation was not taken up by the Commission.

40. Does the current set-up of the programming process and implementation of activities lead to real ownership by the beneficiaries? What could be improved? How can the EU and Member States maximise the impact of joint programming?

The JCP notes that evaluations have shown the NAO/RAO system not to have delivered in terms of efficient sector dialogue and smooth implementation. This seems mostly due to the asymmetrical nature of the relationship between the NAO/RAO and the EU Delegation, as well as the centralised EDF management system. There is moreover a trend of the EU becoming more assertive of its own priorities for cooperation with ACP countries, such as its recent imposition of energy as a focal sector in many ACP countries that expressed preference for other sectors (Herrero et al 2015). Some EU development cooperation recipients outside the Cotonou framework have assumed strong ownership of development cooperation with the EU (e.g. Cuba), while some ACP states have shown very weak ownership of EDF funded operations. Development cooperation is essentially a negotiated relationship. The design, implementation and review of development cooperation is an outcome of this negotiation process, and it is not possible to 'contractualise' behaviour of the providing or recipient partner to guarantee such ownership.

41. Does the variety of existing tools adequately support the EU and ACP common principles and interests and are there gaps that should be addressed? How do you assess the effectiveness and efficiency of various implementation modalities?

The ACP-EU cooperation framework has been used as an important 'laboratory' for innovations in the area of aid and development effectiveness, including the use of contribution agreements to finance regional economic communities, the provision of sector and general budget support and the blending platforms developed in more recent years. The EU should be encouraged to mainstream lessons learned in development cooperation practice throughout its cooperation relations with all regions worldwide, in line with the universal 2030 Agenda.

42. Should a higher degree of self-financing from the ACP States be required for activities to ensure ownership? Would this apply to all countries? On which principles should this be based?

It is unlikely that a higher degree of self-financing from the ACP States is required for activities to ensure ownership. The EU is currently co-financing the ACP Secretariat for a maximum of 50% of its annual budget. The EU has been co-financing the Secretariat since 1977 (Lomé I). There have been calls for the ACP to fully finance its own secretariat, but this would ignore the fact that the EU also needs the Secretariat as an intermediary for intra-ACP financing. There is no co-financing requirement for development cooperation programmes. The same goes for all other EU external action instruments, as co-financing is only a requirement in cohesion policy.

43. How can the expertise of the EU and its Member States be better mobilised, particularly in the middle-income countries?

Increasing the mobilisation of European expertise would suggest increasing supply-driven cooperation and tying development finance to specific sources of expertise. The desired source of expertise should be determined during the identification phase of interventions, and specific expertise should be determined through competitive tendering. At this moment many European citizens already provide their expertise through technical assistance and twinning operations already funded from the EDF, and a clear case for further increasing the use of EU expertise is not advanced in the JCP. Moreover, such a convincing case - if it is to be made - should not only focus on ACP-EU cooperation but be reflected in the development policy guiding financial instruments for development cooperation with all developing country regions.

Sources used

ADE (2013) Evaluation of the European Union's Support to Private Sector Development in Third Countries, online:
https://ec.europa.eu/europeaid/sites/devco/files/evaluation-private-sector-main-report_vol1_en_0.pdf

Bartelt, S. (2012) ACP-EU Development Cooperation at a Crossroads? One Year after the second Revision of the Cotonou Agreement, in: European Foreign Affairs Review 17, no. 1 (2012): 1-25

Delputte, S. (2012): The ACP-EU Joint Parliamentary Assembly Seen by Its Members: Empowering the Voice of People's Representatives?, in: European Foreign Affairs Review 17 (2): 241-260

Drieghe, L. (2011) Lomé I herbekeken: Naar een geopolitiek intergouvernementalistische analyse van de eerste Conventie tussen de Europese Economische Gemeenschap en de Afrikaanse, Caribische en Stille Stille-Zuidzeelanden, PhD thesis, University of Gent

European Report on Development (ERD) (2013) Post 2015: Global Action for an Inclusive and Sustainable Future, Brussels: EU

Frederiksen, J., Hasse, O., Ørnamark, C. and H. Baser. (2007) Striking the right balance: The future of NAOs in ACP-EU cooperation. (ECDPM Discussion Paper 73). Maastricht: ECDPM

Furness, Mark (2011) Sustaining EU financing for security and development: the difficult case of the African peace facility, DIE Briefing Paper 7/2011

Hackenesch, Christine (2013) Aid donor meets strategic partner? The European Union's and China's relations with Ethiopia, Journal of Current Chinese Affairs 42 (1), 7-36

Herrero, A., Knoll, A., Gregersen, C., Kokolo, W. (2015) Implementing the Agenda for Change: An independent analysis of the 11th EDF programming. (Discussion Paper 180). Maastricht: ECDPM.

Koch, Svea (2012) From poverty reduction to mutual interests? The debate on differentiation in EU development policy, DIE Discussion Paper 13/2012

Keijzer, Niels / Brecht Lein / Mario Negre / Nicola Tissi (2013) ACP-EU relations beyond 2020: exploring European perceptions, DIE Briefing Paper 11/2013

Lawson, A. (2014) Synthesis of Budget Support Evaluations (2010-2014), online:
https://ec.europa.eu/europeaid/sites/devco/files/strategic-evaluation-synthesis-ec-budget-support-1335-main-report-201411_en.pdf

Mackie et al (2010) Study on Legal Instruments and Lessons Learned from the Evaluations Managed by the Joint Evaluation Unit, online:
http://ec.europa.eu/europeaid/how/evaluation/evaluation_reports/reports/2011/1292_voll_en.pdf

Negre, Mario / Niels Keijzer / Brecht Lein / Nicola Tissi (2013) Towards renewal or oblivion? Prospects for post-2020 cooperation between the European Union and the Africa, Caribbean and Pacific Group, DIE Discussion Paper 9/2013

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