

The government's response to the AIV's advisory report 'ACP-EU Cooperation after 2020: Towards a New Partnership?'

On 4-5 June the African, Caribbean and Pacific (ACP) Group of States celebrated its 40th anniversary. The development relationship between the European Union (EU) and the 79 countries that now comprise the ACP goes back even further. At the time the European Economic Community was established in 1957, an aid fund was set up, the predecessor of the European Development Fund (EDF). Since 2000 the partnership has been governed by the Cotonou Agreement, which seeks to alleviate poverty and achieve the gradual integration of the ACP countries into the world economy. The upcoming expiration of the agreement in 2020 is an excellent opportunity to take a close look at the ACP-EU partnership. Given the upcoming negotiations on reviewing the partnership, and the Netherlands' EU Presidency in the first half of 2016, the government requested an advisory report on the subject from the AIV on 3 March 2014. The main question was whether the current ACP-EU partnership agreement should be continued, and if so, what form it should take and what issues it should address.

On 27 May 2015 the AIV report 'ACP-EU Cooperation after 2020: Towards a New Partnership' (no. 93) was sent to the House of Representatives. The government's response follows below. This letter also deals with the current status of the negotiation process and the preparations for the Netherlands' Presidency of the EU.

General

In the government's view the report contains valuable analyses of the new geopolitical and of economic landscape and internal developments within both the EU and the ACP since the signing of the Cotonou Agreement. The AIV is right to reflect on the importance of the post-2015 agenda, which is currently being hammered out, as a point of reference for the future direction of the EU-ACP partnership. Coherence and universality will be key themes in the agenda. The report also presents an overview of specific instances of cooperation within the framework of the Cotonou Agreement, without claiming to be exhaustive.

The government shares the AIV's opinion that relations between the ACP and the EU are due for a fundamental reassessment. Simply making a few minor adjustments and pressing ahead would be a missed opportunity. At the same time, the report assumes that 'the European Commission seems to be cautiously working towards a successor to the Cotonou Agreement'. In the government's opinion this does not necessarily mean a successor agreement with the ACP countries collectively, in the form of a treaty. In various venues the

European Commission has stressed its wish to explore all options, including alternatives to a treaty and to a collective approach. According to the Commission, the only option that is not on the table is the “zero option”. The ACP countries are key partners, and the EU is keen to renew the relationship. This is also the government’s standpoint. It is obvious that the productive partnership between the EU and the countries of Africa, the Caribbean and the Pacific is mutually beneficial. The parties concerned must seize the opportunity to thoroughly explore every possible option for achieving a modern, equal and effective partnership with the ACP countries that transcends a donor-recipient relationship and is based on a coherent and integrated EU external policy.

A solid analysis of the fruits of the Cotonou Agreement must be the point of departure for any future action. The AIV report is a good starting point but further analysis is needed. The government expects the Commission to determine its course of action on the basis of thorough research and internal reflection. It would be ill-advised to choose the path of least resistance, on the basis of unsubstantiated assumptions and established interests.

Economic Partnership Agreements

The AIV’s report also contains an analysis of the various parties’ experiences with the Economic Partnership Agreements (EPAs). Although the analysis contains valuable elements, the government feels it does not do justice to the EU’s efforts to adhere to the conditions imposed by the WTO due to discriminatory trading arrangements with the ACP. For example, the AIV says little about the negative impact of these preferences on non-ACP developing countries. The AIV is right to observe that the decision to conclude separate trade agreements with regions has put pressure on the negotiations, but it is wrong to suggest that an EPA with the ACP as a whole might have been possible. It should be noted that by working with the regions the EU linked up with existing regional economic institutions and free trade areas. The negotiating process was certainly difficult, and both sides are responsible for this, including the EU, as the AIV states. But the report says nothing whatsoever about the notion that the ACP countries had little reason to actively promote EPAs on the domestic front due to internal political considerations (and a desire to maintain their position in the negotiations). The government also disagrees with the AIV’s view that the (interim) EPAs expressed ‘a commercial spirit more than the broader development vision of the Cotonou Agreement’. The EPAs are trade agreements with a strong focus on the development dimension: the transition provisions and the asymmetry in the opening of EU and ACP markets are more generous than in any other EU trade agreement. Furthermore, the ACP countries receive development funds to support the agreements’ implementation.

Response to conclusions and recommendations

The ACP as a collective

The AIV states that the EU-ACP relationship could have been harnessed more strategically to achieve shared political goals on the world stage. For example, the AIV contends, the ACP and the EU could have joined forces within the UN, since together these countries constitute a numerical majority. This kind of political cooperation has never truly got off the ground. The AIV would like to see political cooperation with the ACP countries taken to the next level, and for that reason it argues that the ACP should be maintained as a collective. This is also the view expressed by spokespeople within the ACP *institutions*. The government, for its part, believes that this choice is first and foremost one for the ACP *countries* to make. In defending the added value of the collective, the AIV relies mainly on arguments related to the numerical majority of the ACP countries and EU member states in various international forums. This raises the question of why this majority could so rarely be used effectively over the past 40 years. Outside of Brussels the ACP has not transformed itself into a political power bloc of any significance. International negotiations with a multinational character are held within other bodies, such as the G77. It seems unlikely that the ACP as a group will operate more forcefully in international organisations in the future.

The AIV rightly observes that regionalisation is an irreversible phenomenon. The importance of regional organisations like the African Union (AU) is on the rise. EPAs have also been concluded between the EU and a number of regional bodies. With this in mind the government does not believe that the ACP necessarily needs to be maintained as a collective, particularly not when the ACP countries themselves evidently feel the need to organise themselves politically in more regional institutions or if a collective approach would imperil cooperation between the EU and the various regions. The idea of recasting the relationship on a more regional basis is, in the government's view, not illogical and is, at the very least, worthy of serious examination. If it turns out that Union-to-Union-based cooperation is more effective because it better reflects the needs of the various regions, this option should certainly be considered.

As the AIV remarks, a thorough review should be conducted of the functioning of the joint ACP-EU organs, particularly with regard to the formal character of the relationship and the lack of political involvement, especially on the EU side. The absence of EU ministers at political summits is felt on the ACP side, but on the other hand, it should be observed that greater relevance and effectiveness would serve to increase political involvement. In that light, reforms are necessary. The recent decision, cited by the AIV, to wind up the Centre for the Development of Enterprise (CDE) owing to poor performance and a lack of results is an

example of such a reform. It should be noted that this decision was only taken following years of urging by various parties, the Netherlands not least among them. There should be more effective safeguards in place to ensure a modern approach with multi-stakeholder participation. The AIV's conclusion that the financial self-sufficiency of the ACP secretariat in Brussels could enhance the independence of the ACP group is important. More important still, the government believes, is establishing a more direct link between the institutions and the strategy and objectives of the partnership, so they can truly function as a vehicle for the partnership.

The structure of the ACP-EU partnership

Up to now the ACP-EU partnership has been enshrined in a legally binding document. The government shares the AIV's view that this has benefited the partnership's predictability, reliability and ownership. The ACP might perceive a different type of structure as downgrading the partnership, and this should be kept in mind during the negotiations. However, the government does not share the view that a treaty is necessary to ensure reciprocity and a consensus on basic premises. The post-2015 development agenda, which will focus much more on universality, is a good example of this. In advising the government to press for a mutually binding legal document, the AIV seems to overlook, or give insufficient regard to, a number of key considerations:

- A new convention with only the ACP could perpetuate divisions within European development policy. In this day and age there is no longer any justification for maintaining fundamentally different relations with one group of developing countries exclusively on the basis of a shared colonial past. EU support should be based on third countries' prospects for development and not on an 'ACP label'.
- With the planned entry into force of the Economic Partnership Agreements (EPAs) and given the European Commission's intention to incorporate the EDF into the EU budget,¹ there seems to be little substance left for a treaty. A legally binding treaty is not the only possible framework for an intensive political dialogue.
- Moreover, without the direct connection to development cooperation and trade, it seems unlikely that a new treaty would enjoy the support of enough countries for it to enter into force. Politically, this would be a highly undesirable outcome, after difficult negotiations and the commitment of scarce resources. The negotiations would be complicated by a number of issues, such as LGBT rights and the International Criminal Court, about which some ACP countries have different views than the EU.

¹ See Council Conclusions of 7-8 February 2013:
<http://data.consilium.europa.eu/doc/document/ST-3-2013-INIT/en/pdf>.

Even migration, an issue which entails clear mutual interests, also proved to be a major stumbling block at the second revision of the Cotonou Agreement in 2010.

In the light of the above, the government feels it is important to have an open dialogue about what structure would best serve both sides' interests. The upcoming expiration of the agreement provides a unique opportunity for this. We should, of course, retain the positive aspects of Cotonou. Obviously, the involvement of the ACP countries and other actors will be a crucial factor in the success of this process.

Modern, coherent and integrated European external policy

The AIV rightly observes that the Cotonou Agreement has served as an example, particularly of reciprocity and coherence between political, economic and development cooperation. This also applies to the EDF. Over the years the development support from the EDF, on the one hand, and the Development Cooperation Instrument, which falls under the EU budget (the DCI), on the other, have been brought into line with each other, in terms of both substance (a focus on poverty) and procedure (programming).

The AIV questions the government's intention to press for integrating the EDF into the EU budget, arguing that it could undermine the group approach and lead to the abandonment of the principle of reciprocity. The government shares the view that the positive aspects of the partnership (e.g. reciprocity and mutual responsibility) should be safeguarded if the EDF is subsumed into the EU budget. At the same time, all forms of support that the EU gives to third countries should fall under the same legal framework and be subject to the same democratic checks of the European Parliament. Incidentally, this is wholly in line with the desire expressed by the Juncker Commission to work towards a coherent and integrated external policy, which the Netherlands supports. With that in mind the government will continue to press for integrating the EDF into the EU budget in the interests of a more coherent EU development policy – naturally with due regard for preserving the positive aspects of the EDF.

Overseas Countries and Territories

The AIV was also asked for advice on the consequences that a possible change in relations with the ACP countries might have for the Overseas Countries and Territories (OCTs). The AIV recommends backing the proposal to abolish the distinction between OCTs and Outermost Regions (OR) and, in anticipation of this change, to support any Dutch OCTs within the Kingdom that may seek to join arrangements applying to ORs, or make the full transition to that status. The government would observe that no official proposal has been

made in the EU to eliminate this distinction, nor is any expected. OCTs are, however, free to decide to harmonise their own legislation with the EU acquis. The government will heed the recommendation to support the Dutch OCTs if they are interested in changing their status. A possible change in status for the Caribbean Netherlands (Bonaire, St Eustatius and Saba) will be incorporated into the evaluation of political structures which will be completed this year. Up to now the three autonomous countries of the Kingdom in the Caribbean have not expressed any intention of abandoning OCT status in favour of OR status. To do so would mean, among other things, an obligation to introduce the EU acquis and, in time, the euro.

Specific role of the Netherlands

The government agrees with the AIV's analysis of the possible role the Netherlands can play in reassessing the relationship between the EU and the ACP. By adopting a positive yet critical standpoint and an integrated view of foreign policy that combines aid and trade, the Netherlands can make a difference in the post-2020 debate, as the AIV states. At the same time, this creates opportunities for the Netherlands to further shape the coherence agenda during its EU Presidency in the first half of 2016.

The government endorses the AIV's position that working with ACP countries is an effective way of achieving goals relating to sustainable, inclusive development and peace and security. However, the government is less convinced by the AIV's conclusion that there is a need for 'unwavering efforts to conclude a follow-up partnership agreement in the form of a legally binding treaty'. In the coming months the Netherlands will lobby within the EU for transparency, a sound internal evaluation of the 'Cotonou acquis' and the timely involvement of the ACP countries, with a view to shaping the relationship so that it is consonant with a modern, coherent and integrated external policy on the part of the Union. This presupposes an effective and equal partnership between the EU and the ACP which can really contribute to peace and security, sustainable development and inclusive growth, and which fits in with the new political landscape and the post-2015 agenda.

The negotiation process

Negotiations with the ACP countries about the future of Cotonou will formally open no later than 1 October 2018.² In preparation for internal EU deliberations to establish a negotiating position before the talks open, the Commission organised several roundtable meetings on various topics in March and April of this year to gather input from various parties: member

² Article 95 (4), Cotonou Agreement.

states, EU institutions, civil society groups, the business community and think-tanks.³ The Netherlands was responsible for organising the meeting on stakeholders and institutions. The purpose of the roundtable talks was mainly to formulate the right questions to serve as input for the green paper that is expected to be released in October 2015. On the basis of the green paper public consultations will be held, the outcome of which will possibly be presented during the Dutch Presidency. This will in turn serve as the basis for a Communication. High Representative Mogherini has scheduled an initial formal discussion about the post-Cotonou agenda for the Foreign Affairs Council of October 2015.

A large number of member states, including the Netherlands, have asked the Commission and the European External Action Service (EEAS) to make their own analysis and assessment of the benefits of Cotonou. In this way, member states are seeking to encourage an internal reflection process at the Commission and at the same time seeking answers to questions about lessons learned. Questions that were raised in requesting the analysis touch on issues like the effectiveness of political dialogues, the results of cooperation in multilateral forums and the value of the joint institutions. This process will run parallel to the public consultations and also serve as input for the Communication. At the same time, the European Centre for Development Policy Management (ECDPM) is working, with Dutch support, on a 'political economy analysis' of the EU-ACP relationship. Results are expected in the autumn and will be presented during Luxembourg's Presidency.

At the ACP-EU Joint Ministerial Council on 28 and 29 May the EU spoke with the ACP for the first time in a formal setting about the future of EU-ACP relations. The meeting mainly dealt with procedural questions. The ACP has also initiated an internal reflection process, among other things about the value of the ACP as a collective. The new ACP Secretary-General has ambitious plans for the group as the 'leading transcontinental organisation' and believes the ACP can be an attractive partner for the EU in the future. At the Ministerial Council, Commissioner for International Cooperation and Development Cooperation Neven Mimica acknowledged the value of the partnership, but strongly urged flexibility in the negotiating process.

This is also what the Netherlands aims to achieve during its EU Presidency. As the AIV remarked, the Netherlands can contribute to the discussion, taking a positive yet critical standpoint and an integrated view of foreign policy that combines aid and trade. In

³ The topics addressed by the seven roundtable meetings were: type of partnership; the added value of ACP in the future general development cooperation framework; implementation mechanisms; stakeholders and institutions; regional integration and trade; global challenges, and demographic trends.

collaboration with the ECDPM the Netherlands will explore concrete alternatives to a convention – a subject that has thus far been absent from the debate. In consultation with High Representative Mogherini the Netherlands will put this issue on the agenda of the informal Foreign Affairs/International Cooperation Council which we intend to hold in early 2016. During its EU Presidency the Netherlands will do its best to contribute to an open and transparent debate on a new relationship with the ACP countries, in terms of both form and substance, creating the conditions for a modern, equal and effective partnership.

The semi-annual EU-ACP Joint Parliamentary Assembly (JPA) will be held during the Dutch Presidency, in May 2016. The Netherlands will underscore its involvement in the interparliamentary partnership between the EU and the ACP by contributing to the JPA agenda, with due regard for the future of ACP-EU relations.