

Information Note on the Revision of the Cotonou Agreement

Context

The Cotonou Agreement was concluded for a twenty-year period from March 2000 to February 2020. It entered into force in April 2003, following a three-year transitional period due to ratification deadlines. While preserving the 'acquis' of twenty-five years of EU-ACP relations, the Cotonou Agreement introduced radical changes and ambitious objectives to a number of areas of EU-ACP cooperation. The Agreement is based on five interdependent pillars with the underlying objective of: the fight against poverty, an enhanced political dimension, increased participation, a more strategic approach to cooperation focusing on poverty reduction, new economic and trade partnerships and improved financial cooperation.

A revision clause, article 95 of the Cotonou Agreement, foresees that the Agreement is adapted every five years (with the exception of the economic and trade provisions, for which there is a special review procedure). In accordance with Article 95, at the end of February 2004, EU and ACP partners notified the provisions of the Agreement they wished to amend. The negotiations were launched at the ACP-EU Council of Ministers in Gaborone in May 2004 and were concluded on 23 February 2005.

Results of the Negotiations

The Cotonou Agreement is a global and exemplary agreement which often serves as a model for other EU agreements with third parties. The EU objective in the review process was not to call into question the fundamental acquis of the Cotonou Agreement, but rather to enhance the effectiveness and quality of the EU-ACP partnership. Accordingly, the proposed amendments were deliberately limited to technical or minor adjustments, with a particular emphasis on improving implementation of the Agreement and ensuring its consistency with a number of political commitments recently undertaken by the EU.

After ten months of negotiations, a global agreement was reached on 23 February at a final ACP-EU Ministerial Conference. The points of agreement can be broadly grouped into the political dimension, development strategies, Investment Facility and implementation and management procedures.

1. The political dimension

The Cotonou revision provided the opportunity to put into practice certain recent security commitments undertaken at international level. In addition, an agreement was reached on the establishment of a more systematic and formal political dialogue. The points of agreement were as follows:

- **Political dialogue** on the essential elements and consultation procedure under Article 96 of the Cotonou Agreement: the revised Cotonou Agreement makes provision for a more systematic and formal dialogue under article 8 in relation to the three essential elements (human rights, democratic principles and the rule of law). Furthermore, this dialogue must now be held before the consultation procedure provided for by Article 96 can be launched. These provisions are complemented by a new annex setting out detailed modalities for the

structured dialogue. In keeping with the preventive nature of the dialogue provided for under Article 8, a formal, structured dialogue should be held systematically with each country. Annex VII lays down detailed modalities for this dialogue. If, at the end of the formal dialogue, one party believes that the other has failed to respect an essential obligation, it can invoke the consultation procedure and, if necessary, the appropriate measures provided for under Article 96. The time-frames for consultations under Articles 96 and 97 have been extended. The Joint Council may lay down a certain number of additional arrangements, relating, for example, to the stages of the consultation process and types of benchmarks and targets.

In addition, under the revised Cotonou Agreement, representatives of the **ACP Group** and of the **Joint Parliamentary Assembly** may take part in the political dialogue provided for under Article 8. In practical terms, for the ACP Group, this implies the troika of the ACP Committee of Ambassadors and the Chairperson of the ACP sub-committee on political, social, humanitarian and cultural affairs, and, for the Assembly, the co-presidents or their designated nominees.

On a general note, these amendments strengthen the political dimension of the Cotonou Agreement, placing greater emphasis on effective dialogue and results. They do not in any way detract from the provisions concerning the respect of essential elements; on the contrary, in practice, they make them more operational.

- ACP-EU partners agreed to include a reference to **cooperation in countering proliferation of weapons of mass destruction (WMD)**. The provision is based on the “non-proliferation clause’ adopted by the Council and also contained: (1) a statement that additional financial and technical assistance will be granted for cooperation on non-proliferation of WMD and that this will not be funded from resources intended for ACP-EU development cooperation; (2) a statement specifying that the timetable for such measures will be tailored to the specific circumstances in each country and (3) a provision whereby compliance with non-proliferation measures must be assessed in particular on the basis of reports produced by the relevant multilateral institutions.

This agreement constitutes a real break-through in the area of international relations and reflects the common commitment of 78 ACP countries and 25 EU Member States to combating the proliferation of WMD. The commitment has the status of an essential element of the partnership and is based on a clear reference to the relevant multilateral bodies dealing with these matters.

- Agreement was reached on inclusion of a provision on the **International Criminal Court** and the Statute of Rome in the preamble as well as in the text of the Agreement. This reflects the common commitment of the Union and the ACP States to the institutions of global governance.

- The revised agreement provides for inclusion of a clause which confirms partners’ international cooperation in the fight against **terrorism**.

- A provision relating to the **prevention of mercenary activities** will be introduced into the revised Agreement.

2. Development strategies

ACP-EU partners proposed a series of amendments relating to sectoral strategies. Agreement was reached on all the proposals. This included, in particular, specific references to a number of themes:

- **Millennium Development Goals:** inclusion of a reference to the MDGs in the preamble of the Agreement which reaffirms partners' commitment to those goals; The 8 MDGS are (1) Eradicate extreme poverty and hunger (2) Achieve universal primary education (3) Promote gender equality and empower women (4) Reduce child mortality (5) Improve maternal health (6) Combat HIV/AIDS, malaria and other diseases (7) Ensure environmental sustainability (8) Develop a global partnership for development

- **Social sector:** inclusion of a reference to the promotion of the fight against poverty-related diseases and protection of sexual and reproductive health and rights of women;

- **Non-state actors:** insertion of provisions to facilitate non-state actor access to indicative programme resources, under a strategy approved by the Commission and the ACP State concerned. These actors can benefit *directly* from financing via grant contracts drawn up between the Commission and the body in question. The types of non-state actor and activities to be supported must be identified in the country strategy paper;

- **Regional Cooperation:** simplification of financing requests and facilitation of cooperation between ACP States and other developing countries. This will take place on the basis of reciprocity;

- **Information and communication technologies:** introduction of a provision on the development and use of local content for ICTs;

- **Youth:** promotion of the participation of young people in public life and encouragement of exchanges and interaction between ACP and EU youth organisations;

- **Traditional knowledge:** promotion of traditional knowledge as part of sectoral economic development;

- **Island ACP States:** strengthening of existing provisions on island ACP States, emphasising their increased vulnerability brought about new economic, social and ecological challenges and promoting a harmonised approach in this respect;

3. Investment facility

In order to make implementation of the investment facility more flexible and more effective, a number of changes were made concerning the conditions attached to loans and interest-rate subsidies, exchange-rate-risk-sharing and repayments to the Bank. In addition, as is the case for resources managed by the Commission, the investment facility is now subject to a joint performance review half-way through (mid-term) and at the end of the financial protocol.

4. Implementation and management procedures

The EU proposed a number of amendments with the threefold objective of simplification, clarification and harmonisation, while preserving the fundamental acquis of the Cotonou Agreement. During the final ministerial conference, it was decided that the Joint Council will finalise discussions and take a decision on **procurement procedures** and implementing arrangements for the instrument for financing short-term fluctuations in export earnings (**FLEX**). The points of agreement can be grouped as follows

- **Greater flexibility in the allocation of resources**; in particular, the creation of a larger reserve when resources are allocated and the possibility of altering the amounts in national and regional envelopes other than through the reviews planned for that purpose, in the light of special needs, exceptional performance, or to cover international initiatives of benefit to the ACP countries;
- **Financial management in crisis or conflict situations**; possibility to use resources for policies to promote peace and to manage and settle conflicts, including post-conflict support, and to allow the Commission to directly manage these resources until normal conditions have been restored.
- Support for initiatives on **untying of aid**; in particular in the framework of ACP cooperation and regional integration efforts;
- Reformulation of the **responsibilities of managing and executing agents**; strengthening the strategic role of the national authorising officer; rewording of the texts, of the article relating to the Head of Delegation to remove the detailed reference to his responsibilities which are not only part of the internal organisation of Commission departments, but are also prone to change regularly in the context of the devolution process; a manual on procedures will set out the respective roles of the Commission, the national authorising officer and the Head of Delegation;
- A number of changes aimed at **simplifying procedures**;
- Financing **devolution**; the purpose of the new provision is to enable €90 million of intra-ACP cooperation resources to fund devolution in 2006-07.

Financial Framework

At the final ministerial conference, the parties reached a preliminary conclusion to their discussion of the multi-annual financial framework for cooperation. The EU committed to **maintaining its aid effort to the ACP countries at least at the level of the 9th EDF**, not including balances and adding the effects of inflation, growth within the European Union and enlargement to take in 10 new Member States, on the basis of Community estimates. This minimum aid effort is guaranteed without prejudice to the eligibility of ACP states' for additional resources under other instruments which already exist or may yet be created. The precise amount of Community aid will be determined, if at all possible, by September 2005.

Signature of the revised Agreement

The Luxembourg Presidency proposed holding the ceremony for signature of the revised agreement during the second half of June 2005. This will be followed by a process of

ratification. Transitional measures will be proposed in order to allow for application of some of the agreed amendments before ratification of the revised Agreement.