

## Improving the Framework for Political Co-operation between the ACP and the EU<sup>276</sup>

### 10.1 Introduction

Development co-operation based on contractuality and partnership has been identified as essential to the eradication of poverty and the achievement of social development. The international targets that aim to eradicate poverty, set by the OECD's Development Assistance Committee (DAC) and the UN conferences, have emphasised the need for shared responsibilities between donors and developing countries. The 20:20 compact is based on the idea that both donors and developing countries alike need to make social investments if social development is to be achieved. For these reasons examining the Lomé Convention, which is the most established co-operation agreement based on the concept of contract and partnership between donors and developing countries, is of particular relevance.

To date this co-operation between the European Community (EC) and the African Caribbean and Pacific (ACP) countries has been formally anchored on the framework of successive agreements known as the Lomé Conventions. As the last Convention states, co-operation between the two parties is underpinned by a legally binding system and the existence of joint EC and ACP bodies. According to the Convention, co-operation is exercised on the basis of the following principles:

- Equality between two partners;
- The right of each state to determine its own policy options; and
- Security of relations based on the experience of their system of co-operation.

Formalised co-operation between the European Community and a grouping of African states, (a forerunner to the ACP), dates back to 1957. In 1975 the first Lomé Convention established the basic mode and framework for the co-operation that exists today. In September 1998 negotiations started between the two partners to put in place a successor agreement to the revised Lomé IV Convention by March 2000. The ACP is in favour of building on the current Convention by improving its achievements. The European Community is proposing a fresh approach to ACP-EU co-operation by gradually dismantling non-reciprocal trade preferences to the ACP, one of the flagships of the agreement. As the EU has sought to bring in politically sensitive issues such as the establishment of Free Trade Areas, an effective process of political co-operation between the ACP and the EU is more vital than ever.

## 10.2 Advantages of contractual co-operation agreements

The concept of contractuality in a development co-operation framework is virtually unique. It contributes to making the ACP-EU framework for co-operation different from other conventional development co-operation agreements in a number of ways.

Firstly, the different roles and responsibilities identified for the two parties allow both of them to play a part in defining and carrying out co-operation. The Convention provides for decisions to be taken jointly on all aspects of the Convention apart from the levels of finance that ACP countries, collectively and individually, receive for the implementation of the Convention.

Secondly, the contractual nature of the agreement ensures a certain degree of predictability by spelling out the terms of the contract in the form of clear rules of co-operation and responsibilities of both parties. It also informs the ACP of the amount of finance they can expect to receive over a given period of time. In earlier conventions exact amounts of finance for ACP countries, corresponding with five-year national indicative programmes were virtually guaranteed.<sup>277</sup>

Finally the contractual nature of the partnership necessitates that both partners agree to implement policies in a common direction. As 'ownership' of policies by developing countries' governments is seen as crucial for the success of any development co-operation, emphasis is given to political dialogue as a means of clarifying and setting the responsibilities of both parties, and the conditions of the agreement.

The Lomé IV *bis* Convention assigned the role of conducting an enlarged political dialogue to the Joint Council of Ministers. This may take place outside the framework of the Convention. It calls for procedures for dialogue to be made as flexible as possible to allow it to take place at global, regional, sub-regional and country level. This may include Troika meetings (current presidency of the council plus former and next presidencies) and senior officials' meetings. This arrangement is intended to allow the Joint Council to better address specific problems when they arise.

In order to arrive at consensus on policy the negotiation process may sometimes be seen as time consuming. However, the political process in which the parties engage helps to establish a common point of departure for the joint implementation of policies in southern countries with the support of northern governments. Reaching such common understanding should be a vital element of any co-operation agreements between donors and recipients.

### **10.3 Fragility of partnership: will the EU force free trade areas upon the ACP?**

The vigorous and effectiveness of the political process depends on the actual manner in which both parties arrive at decisions through their respective and joint institutions. Faults or constraints in the political process that prevent decisions from being reached can strongly undermine the credibility of the partnership. Similarly, inequality in the bargaining power of the parties may subvert the process by which the partners come to an agreement.

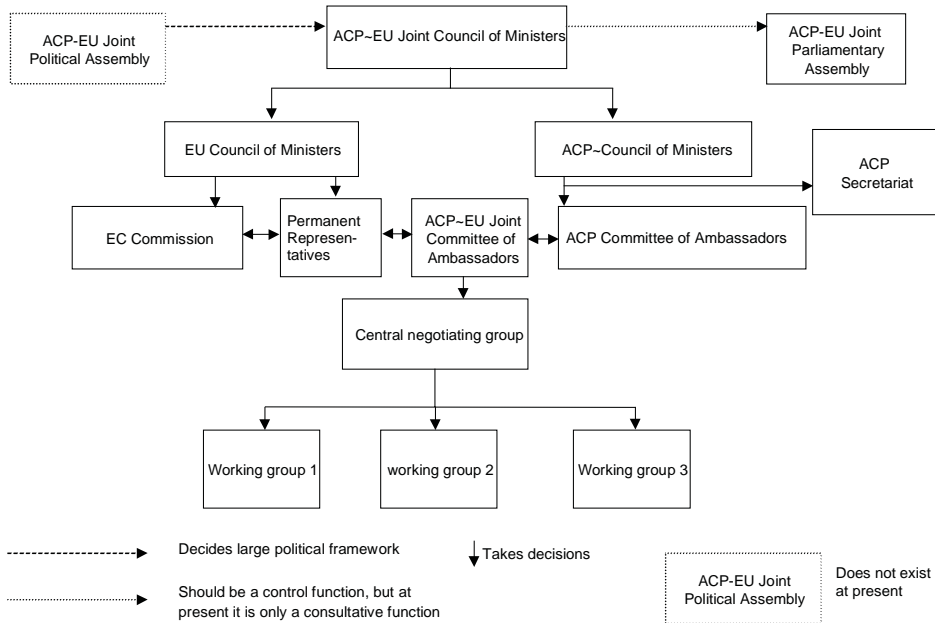
This is illustrated by a suggestion once made from within the EU that once the new agreement was reached, the effective negotiations on the terms of the Regional Economic Partnership Agreements (REPAS) for non-LDC ACP countries would take place within the EU Council of Ministers. Unilateral decisions would be taken by the EU and ACP countries would be forced to accept proposals they have so far rejected. There would be no alternative to reciprocal trade arrangements.

A political process that is corrupted in this way lacks credibility and undermines trust for future co-operation between the partners, even where this might be beneficial to the EU countries. It also potentially results in decisions that have not been adequately considered. In the case of the REPAS, for instance, many observers have questioned their feasibility and appropriateness for the ACP. These include independent experts commissioned by the European Commission to conduct studies on the potential impact of the REPAS.

A sound political process is designed to ensure that decisions are taken in a responsible and considered manner with the support of the main constituencies that are affected. In the next sections we will, therefore, consider more closely how sound the political decision-making process is for the negotiations on co-operation agreements between the ACP and the EU.

#### *10.3.1 Structure of the political decision making process*

The institutions defined in the Convention are central to this process and the interaction between the separate and joint EU/ACP bodies determine the quality of the decisions taken. In this section we look at the institutions involved in the political decision making process. We will assess how the separate and joint EU and ACP organisations relate to each other and their responsibilities within the decision making process.

CHART I *Decision-making structure of the ACP-EU Cooperation Agreement*

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Note: the ACP-EU Joint Political Assembly does not exist, but in this chapter it is argued that its establishment would increase the accountability and transparency of the political decision-making process. At present the ACP-EU Joint Parliamentary Assembly does not have control functions, as it should have.

#### THE ACP-EU JOINT COUNCIL OF MINISTERS

The ACP-EU Joint Council of Ministers is composed of the EU Council of Ministers plus the European Commission and the ACP Council of Ministers. It is, at present, the highest decision making body of the Convention. Its decisions relating to the Convention are binding on the contracting parties. Its main functions are to:

- establish the broad lines of work to be undertaken in the context of the application of the Convention;
- take political decisions to achieve the objectives of the Convention and to settle problems of interpretation.

The Joint Council of Ministers may take into consideration any resolutions or recommendations on the arrangement and attainment of the objectives of the Convention by the Joint Assembly. It may also delegate any of its powers to the

Committee of Ambassadors. The Presidency of the Council of Ministers is held alternately by a member of the Council of the EU and a member of the ACP Council. Meetings of the Council are called once a year, but in addition the Council may meet whenever it deems necessary.

#### THE JOINT COMMITTEE OF AMBASSADORS

The Joint Committee of Ambassadors is composed of the EU member states' Permanent Representatives to the EU and the members of the ACP Committee of Ambassadors plus representatives of the European Commission. Its role is to assist the Joint Council of Ministers in its work. Its main function is to monitor the implementation of the Convention. The Committee also supervises the work of a number of committees and working groups and parties, both ad-hoc and standing. For the negotiations on a successor agreement to Lomé IV *bis*, the Committee set up four working groups through which to conduct the negotiations. A central group dealing with political and institutional issues and three thematic groups dealing with the Private Sector and development instruments; Investment, Economic and Trade co-operation; and Financial co-operation. The position of Chair of the Committee of Ambassadors is held alternately by an EU member state Permanent Representative and an ACP Head of Mission to the EU.

#### THE ACP-EU JOINT PARLIAMENTARY ASSEMBLY

The ACP-EU Joint Parliamentary Assembly is composed of a member or representative of parliament from each ACP state and an equal number of Members of the European Parliament. In the absence of a Parliament in an ACP country, the attendance of a representative from the country concerned would have to be approved by the Joint Assembly. The Joint Assembly is a consultative body that is meant to, among other things, reflect on all matters pertaining to EU-ACP co-operation, through dialogue, debate and concerted action. The Joint Assembly has no legislative or budgetary powers. One of its functions is to review an annual report submitted by the Joint Council of Ministers on the achievements made within the framework of the Convention. It may submit any conclusions or recommendations on the issue to the Joint Council of Ministers. The Joint Assembly appoints simultaneously, an ACP and an EU member of the Assembly as its co-Presidents. The Assembly holds a general session twice a year, meeting alternately in the EU and an ACP country. The Joint Assembly can set up working groups, such as one that looked into questions concerning the successor agreement between ACP and EU and one that focussed on regional integration.

**THE ACP COUNCIL OF MINISTERS**

The ACP Council of Ministers is the supreme body of the ACP group. It defines the common positions of the ACP Group on the application of the Lomé Convention with the European Community. It is composed of a member of government of each ACP state.

**THE ACP COMMITTEE OF AMBASSADORS**

The ACP Committee of Ambassadors is composed of the ACP governments' Heads of Mission to the EU. It is responsible for the execution of decisions of the ACP Council. It represents the ACP group at the ACP-EC Joint Committee of Ambassadors. It negotiates new agreements with the EU on behalf of the ACP Group.

**THE ACP SECRETARIAT**

The ACP Secretariat, composed of civil servants from ACP states, is the body assigned to co-ordinate the activities of the different institutions of the ACP group including the ACP Council of Ministers. Its principal duties are to follow the implementation of the Convention and provide technical and administrative assistance for the ACP Group in negotiating a new agreement.

**THE EU COUNCIL OF MINISTERS**

The EU Council of Ministers has a similar role to that of the ACP Council, in that it is the ultimate decision making body of the EU. The EU Council sets the EU's political objectives and co-ordinates the member states' national policies. It is composed of a member of government of each EU member state and the European Commission.

**THE EUROPEAN COMMISSION**

The European Commission is the management and executive body of the European Union. It is led by a College of Commissioners. In the EU's external relations the Commission has exclusive responsibility for negotiating trade agreements, on the basis of mandates determined by the Council. It also has responsibility for negotiating co-operation agreements, including those with ACP countries. Once concluded the Commission has responsibility for managing their implementation (see annex 1).

**EU PERMANENT REPRESENTATIONS**

EU Permanent Representations consist of EU member states' delegations to the EU. These delegations are headed by Permanent Representatives. A committee of the delegations (Coreper) is charged with preparing EU Council sessions. COREPER

meets weekly and its main task is to negotiate agreements between the member states. Only difficult and sensitive issues are dealt with by the EU Council.

### *10.3.2 Constraints to partnership within the decision making process*

The accountability of the ACP EU decision making process is seriously hampered by the fact that the principal decision making body, the ACP-EU Joint Council of Ministers, is not accountable to any of the joint bodies, not least the Joint Parliamentary Assembly. The role of the Joint Parliamentary Assembly within the decision making process is almost marginal. It has no legislative, budgetary or control functions.

The decision making process also seems deficient in transparency. The Joint Council Ministerial meetings, by their very nature, are closed. Thus there is no automatic means for citizens of both partners to be informed on how decisions were arrived at, or how the different parties to the Convention voted on the broad major issues. Documents from the proceedings of Council meetings are not publicly accessible.

Finally the process of decision making does not allow any formal avenue for civil society to play any kind of consultative or informative role in the process. This reduces the credibility of the decision making bodies.

As a result the decision making process has lacked a political process with a high public profile for setting the broad political guidelines of the negotiations. Indeed it can be argued that the future of the Convention is endangered because its beneficiaries are ill informed on the process and there has been a lack of support from the press and civil society. Given that general interest and understanding from the public of both parties is vital in sustaining the whole Lomé process, a stronger political profile should be given to the decision making process by engaging the public.

## **10.4 The ACP and EU negotiating positions for a new agreement**

Both the ACP and the EU's negotiating directives for a new Agreement<sup>278</sup> made a number of proposals for expanding the co-operation agreement to encompass a wider political process. They both call for political dialogue to be extended beyond the objectives of the Convention to all questions of common interest to both parties. In addition to typical donor concerns such as peace and stability and the arms trade, one issue on which the ACP is keen on discussing is the treatment of its migrants in the EU.

In addition the ACP in its mandate and in the early stages of the negotiations called for the creation of two new institutions, namely a Heads of State Summit

and a Council of Foreign Ministers. According to statements by an ACP ambassador, this reflects the wish to accord the Lomé agreement greater importance, by bringing in Heads of States, as well as addressing the increasing emphasis on political issues. The EU, while not rejecting the rationale behind this proposal, has questioned the need for the creation of new institutions.

Though both parties call for the extension of partnership to civil society, neither proposes any institutional mechanism to link civil society to the decision making process. No proposals have been made to strengthen the powers of the ACP-EU Joint Parliamentary Assembly. In short the question of greater accountability and transparency is not adequately addressed in the proposals offered by the EU and the ACP.

### **10.5 Proposals for enhancing the political decision-making process between the ACP and the EU**

A comparison of the political decision making process between the ACP and the EU with political co-operation between the South-east Asian countries (the ASEM process) and the EU is instructive (see also chapter 8). It informs us about the way in which improvements in political co-operation can be made. In ASEM (Asia Europe Meeting) dialogue is conducted at all levels including bi-annual Head of States summits. Joint policy is carried out by officials, managed by the Senior Officials Meeting. The joint policies that are carried out reflect an incrementalist attitude towards achieving change, based on consensus, rather than a conditioned process. For instance, the question of trade liberalisation is firstly approached from the angle of reducing non-tariff trade barriers, as opposed to more conflictual issues such as the removal of trade barriers. This approach seems most interesting and suitable if applied in the context of co-operation between the ACP and the EU.

The ASEM process also demonstrates that a high profile of general decision making summits helps to focus the attention of the press and the public on the benefits of the negotiations. The establishment of a Joint ACP-EU Inter-Governmental Political Assembly would fill this gap within the ACP-EU negotiations. This Assembly would have decision-making powers to establish the broad framework for future agreements and provide broad guidelines on how to achieve the objective of agreements in force. It would also decide on broad frameworks for the development of common policies between the ACP and the EU. The Assembly should be – partially – accessible to all credited observers including civil society so as to ensure that public interest is generated.

Finally, the accountability of the decision-making bodies needs to be enhanced so as to make the political co-operation more credible. In order to improve formal answerability of the decision-makers to the ACP EU constituency, the powers of the ACP-EU Joint Parliamentary Assembly must be extended to exercising parliamentary control over the decisions taken in the Joint Council of Ministers. Specifically the Joint Parliamentary Assembly should have the right to vote on all broad decisions taken by the Joint Council, and to reject concrete proposals made by the Council. The Joint Parliamentary Assembly should also have the right to ratify the whole Lomé agreement before it comes into force.

## 10.6 Conclusion

It is evident that the effective partnership that is necessary for social development cannot be assumed through the mere provisions of the Convention and declarations of the two partners. Rather it will have to be achieved through measures that increase the transparency and accountability of decision making and enhance the scope of political co-operation. The following proposals will ensure that the co-operation between the ACP and the EU is made more effective:

- Establish a Joint ACP-EU Inter Governmental Political Assembly that sets out broad guidelines for negotiations and joint policy co-operation by ACP-EU officials;
- Mandating Senior Officials Meetings to develop joint ACP-EU policies with a view to incrementally move issues in a desirable direction on the basis of common consensus;
- Develop joint policies on the basis of consensus. This could include the removal of non-tariff trade barriers as a first, more realistic, step to strengthen mutually beneficial aspects of trade liberalisation;
- Strengthen the public profile to demonstrate the benefits of joint ACP-EU political co-operation;
- Open the Joint ACP-EU Inter-governmental Political Assembly to accredited press, civil society organisations and observers to enhance transparency, to engage non-state actors, and to raise the public profile of the co-operation agreement among main constituencies;
- Strengthen the parliamentary role of the ACP-EU Joint Parliamentary Assembly, which should have the right to vote on all agreements reached by the Council of Ministers and the right to ratify the co-operation agreements between the ACP and the EU.

