

The New Partnership Agreement between ACP and EU:

U N R E S O L V E D I S S U E S

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Cooperation between the European Union and 70 African, Caribbean and Pacific countries is entering a new stage marked by some improved policies and procedures but also by a number of unanswered, hard questions. They are raised by Severine M. Rugumamu, Professor of Development Studies and Director of the University Consultancy Bureau of the University of Dar es Salaam, United Republic of Tanzania, and author of Lethal Aid: The Illusion of Socialism and Self-Reliance in Tanzania.

INTRODUCTION

After almost two years of intense and at times acrimonious debates and negotiations, the European Union (EU) and the African, Caribbean and Pacific (ACP) countries concluded and signed a new “Partnership Agreement” for development cooperation in June 2000. This

event, in the city of Cotonou, Benin, marked the formal end of the Lomé Convention and the beginning of a gradual yet possibly trying process toward trade liberalization.

The Agreement is based essentially on five interdependent pillars: a comprehensive political dimension, the pro-

motion of participatory approaches, a strengthened focus on poverty reduction, a new framework for economic and trade cooperation, and the reform of financial cooperation. Following on the previous four Lomé Conventions, the new Agreement will run for twenty years with possible revision every five years and a financial protocol for each five-year period. Almost invariably, both parties found a common ground on contentious negotiating issues such as good governance, transition modalities towards WTO-compatible trade regimes, the mainstreaming of gender, environmental and institutional capacity considerations, the extension of partnership to decentralized actors, and the introduction of performance-based aid allocation.

However, at the heart of ACP-EU relationships are the inordinate power inequalities between the EU and ACP states. EU is a community of advanced industrial economies and democratic polities. ACP is a collection of predominantly weak and dependent economies with fragile societies. The asymmetrical power balance between these two parties springs structurally from the aggregate economic, political, military, and organizational resources of the EU and the overall weaknesses of ACP states, individually and collectively. As would be expected, this unequal power distribution determines not only the broader structural parameters of their relations, but also significantly moulds the psychological climate that surrounds them. The EU's

inherently superior economic and institutional resources were abundantly reflected in its overwhelming ability to set the tone for the negotiation agenda, as well as to define broad parameters of cooperation that were perceived as preferable from its point of view. Little wonder, then that, in the final analysis, the EU succeeded in incorporating most of the contentious provisions that were earlier proposed in its Green Paper (EU, 1996).

The new Agreement states that the ACP-EU partnership will largely focus on reducing and eventually eradicating poverty in a way that is consistent with the objectives of sustainable development, and on gradually integrating ACP economies into the world economy. This welcome refinement of the cooperation agenda is quite in line with other recent UN development priorities and commitments. In that case, to what extent does the new Agreement mark a break with the past development cooperation nightmares? Are the proposed innovations likely to enhance the capacity of ACP countries to cope adequately with the challenges of globalization? Does the new Agreement seek to transform the growing exclusion and marginalization of ACP economies and peoples into hope and opportunity? What sorts of internal restructuring are needed to empower ACP economies and societies to take advantage of the current and future changes within the EU? Does the new Agreement provide adequate safety nets to shield the poor countries from the

uncertainties of globalization and liberalization? Some answers to these questions can be found by examining the new provisions and procedures in the Agreement and the number of issues which have been left unclear or unresolved.

INSTITUTIONAL FRAMEWORK AND OBJECTIVES

Unlike the previous Lomé Conventions, the Agreement is flexible and can be amended regularly. Its two parts are a broad Framework Agreement and a Compendium of Reference Texts. The Framework Agreement provides the broad guidelines for ACP-EU cooperation over a minimum of the next five years. The policy orientations and operational guidelines in specific areas of cooperation are separately developed and incorporated into a Compendium of Reference Texts. The Joint Council of Ministers may revise the texts annually if required.

Viewed retrospectively, a flexible agreement is often a double-edged sword. On the one hand, the Agreement could provide a valuable opportunity for both parties to regularly review and update the texts as and when the need arises. Obviously, such an innovation is welcome, particularly as the new agreement promotes political dialogue as well as conflict prevention and resolution. On the other hand, in an asymmetrical power relationship, the flexible agreement opens up possibilities for reinterpretation by the dominant party to suit

its own needs and convenience. To fully exploit the flexibility of the new Agreement, it would be advisable to provide copies of it to as many concerned parties as possible. Above all, non-state actors are expected to participate in spirited and enlightened ways, and that is likely to militate against blatant abuses of power by the stronger party.

The Agreement states that the partnership will be “centered on the objective of reducing and eventually eradicating poverty consistent with the objectives of sustainable development and the gradual integration of the ACP countries into the world economy.” This core objective ostensibly reflects current international commitments, including the conclusions of the UN conferences in the 1990s, the international development targets, and in particular DAC’s *Shaping the 21st Century Strategy* (OECD, 1996). For this objective to be achievable, follow-up reviews and negotiations should identify strategies that define unambiguously how to achieve the agreement’s policies and programs at national and regional levels. Also, parties to the agreement will need to assess it regularly in order to make informed and appropriate remedies.

The Agreement calls for promoting broader participatory approaches in development cooperation, involving civil society, the private sector, and economic and social actors in the ACP-EU partnership. To this end, the agreement provides for close consultation with civil society by both the Joint Council of

Ministers and the Joint Parliamentary Assembly. Beyond emphasizing the value of consultation and information sharing, this civil society role in the two bodies needs to be clearly defined and operationalized in their rules of procedure during the ACP-EU follow-up reviews and negotiations. It should be noted that, in the previous Lomé Conventions, the principles of participation, partnership, and ownership were blatantly abused. Unless due vigilance on both sides is stepped up, the inevitable imbalance that characterizes this relationship is likely to reduce these otherwise noble principles into empty slogans.

Equally significant, at the national and regional levels, it will be absolutely necessary to clarify the role of the civil society in the entire cooperation process, from the setting of development objectives, targets, and implementation procedures of the National Indicative Programs to the evaluation of their outcomes. To ensure effective participation of civil society in the management of cooperation, the texts should explicitly define the criteria and procedures for identifying and selecting non-state actors at national and regional levels. Finally, adequate resources should be budgeted to build the participatory capacities of the civil society.

The new Agreement identifies a wide range of issues for dialogue outside of traditional development cooperation to foster mutual understanding and the establishment of agreed priorities. The issues

include the arms trade; excessive military expenditure; drugs and organized crime; ethnic, racial and religious discrimination; respect for human rights; democracy, the rule of law and good governance. However, it fails to provide institutional mechanisms to deal with this broader agenda. Obviously, it is not adequate to state that the dialogue will be conducted within and outside the institutional framework without specifying relevant institutions, actors, resources, and schedules. Future reviews and negotiations should seek to define the institutional framework and relevant actors for this political dialogue.

TRADE ARRANGEMENTS

Trade is widely perceived as an important engine of economic growth, which can, in turn, play a dynamic role in poverty reduction. Unfortunately some of the rules that govern international trade are geared towards the corporate and political interests of the powerful actors in the global economy, resulting in a highly unequal distribution of the benefits of world trade.

This observation has been abundantly demonstrated by the impact of trade relations between the EU and ACP states over the last twenty-five years. While trade preferences contributed to the limited commercial success of few countries, the global results were disappointing. The share of ACP countries in the EU market declined from 6.7 percent in 1976 to 3 percent in 1998. About

60 percent of total exports are still concentrated in only 10 primary commodities. At the same time, only a negligible degree of economic diversification occurred in a few ACP economies. In the previous four conventions, the objectives of enhancing processing, marketing, distribution and transport were considered fundamental goals of cooperation, but very little progress was made. In fact, only 7 percent of ACP commodities were processed before export, and less than 5 percent were ready for marketing and distribution (McQueen, 1998; Wolf, 1999; Rugumamu, 1999).

Given this grim scenario, various trade arrangements have been proposed in the new Agreement. The 39 least developed countries (LDCs) of ACP which make up more than half of the entire group, are guaranteed free access to the EU market for “essentially all” products by the year 2005, at the latest. The 31 non-LDCs — which include all 15 Caribbean members, except Haiti — are expected to negotiate WTO-compatible economic partnership agreements (EPAs) with the EU. However, countries that decide not to sign EPAs with the EU are likely to be transferred to the EU’s Generalized System of Preferences (GSP). The main principle of the future trade cooperation is that it will build on the regional integration initiatives of the ACP states. The Agreement seeks to replace nonreciprocal preferential trade arrangements with regional agreements that work in favor of WTO-compatible free trade.

Moreover, parties to the new Agreement have agreed to a preparatory period of eight years before moving to WTO-compatible trade arrangements. Formal negotiations will start in September of 2002, and agreements will enter into force by January of 2008 unless both parties set earlier dates. The eight-year period is supposed to be used to prepare ACP states for these trade agreements, including appropriate budgetary adjustment, fiscal reforms and investment promotion. In 2004, the EC will assess ACP countries’ readiness in relation to these agreements. If, after consultation, these countries decide they are not in position to enter economic partnership agreements, the EC will examine alternative arrangements to provide new trade arrangements equivalent to their existing situation, but in conformity with the WTO rules. The picture beyond 2008 is, to say the least, unclear, with a likely result of some ACP countries keeping Lomé, some negotiating individual EPAs, and others negotiating to obtain yet another, unknown arrangement.

EU-sponsored studies concluded that, unless the EU and ACP adopt comprehensive policies that seek to structure the composition of production and trade, as well as to enhance productivity among ACP countries, the new Agreement is likely to reproduce the sorry results of the four previous Lomé Conventions. The proposed EPA trade arrangements have been considered unviable on several grounds. First, the

proposed economic integration is not likely to create trade, lead to greater efficiency, improve competition in ACP countries, stimulate investment, or lock-in trade and policy reforms. It is unrealistic, for example, to argue that the liberalization of ACP economies will lead

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to competition against products from the EU, to efficiency and to greater investment. In fact, imprudent liberalization is likely to have negative effects on government revenues and balance of payments and also to promote de-industrialization and massive unemployment.

These observations are supported by a recent study by Gottfried Wellmer (1999) on the possible EPA agreement between SADC countries and the EU. The study shows short- and medium-term disadvantages will far outweigh advantages. The projected impact includes loss of customs revenue for all SADC countries — for example, 30 percent for the United Republic of Tanzania; 23 percent for Mozambique; and 70 percent for Seychelles. In industrial development, SADC

countries will be threatened by cheaper imports from the EU and by a loss of EU market share through competition with other trading partners. In addition, there are serious concerns that such an arrangement with the EU will undermine SADC's own moves, now behind schedule, to establish a regional free trade area. The studies concluded that, unless the structural development problems in ACP countries are brought to center stage (such as poor infrastructure, weak institutions, inadequate capacity, debt crisis, and governance), neither free trade nor unfair trade will automatically lead to an influx of investment.

Furthermore, the new Agreement states EU's intention to improve current market access for ACP countries by allowing duty-free access of "essentially all products." This move is, arguably, a welcome one. It aims to remove both tariff and nontariff barriers on commodities previously perceived as sensitive. It intends to stop the dumping of subsidized agricultural surpluses on ACP markets.

However, to achieve these objectives, and before ACP countries can seriously embark on trade negotiation, a number of important policy changes should be made in the EU. For example, the EU's protective Rules of Origin have particularly undermined ACP's prospects for industrialization, since most processed and manufactured goods from ACP countries have failed to meet the EU's threshold. The Safeguard Clauses cause considerable uncertainty in ACP-EU

trade and investment relationships; no potential investor in ACP countries can be certain that future production for export will have access to the EU market if there is a possibility that such exports might adversely affect European interests. Changes would also be essential in the EU's Common Agricultural Policy and in the Multi-Fibre Agreement. If these policies could be changed, the development implications are likely to be phenomenal.

On the question of technology, the new Agreement leaves a lot to be desired. As knowledge becomes much more important in the modern economy, the

EU intends to allow duty-free access of “essentially all products” of least developed ACP countries, but achieving this also requires a number of important changes in EU trade policy.

“knowledge gap” between EU and ACP countries is likely to grow even faster. The WTO agreement on intellectual property rights significantly increases the length and scope of patent protection for many corporations and countries. Its rules grant corporations a 20-year monopoly on knowledge, far beyond the useful life of most new technologies, thus creating unfair barriers to new competitors from

poor countries. The WTO protocols relating to “trade-related investment measures” (TRIMs) and “trade-related intellectual property rights” (TRIPS) severely circumscribe the sovereign rights of states. Under the new trade regime, ACP will no longer regulate activities of transnational corporations in order to foster perceived development needs. The TRIMS protocol, for example, ties the hands of developing countries from requiring foreign investors to abide by specific content requirements, domestic sales limits, trade-balancing tests, or remittance and exchange restrictions (WTO, 1996).

The above array of international regulations is likely to eliminate the prospects of copy-technology (reverse engineering) and force potential users of foreign technology into prohibitively expensive licensing agreements and royalty payments. Above all, tight intellectual property rights will raise the cost of technology transfers to ACP countries and will risk blocking innovations in these countries. In turn, this will undermine ACP's capacity to compete in an increasingly knowledge-based global economy. The tighter control of innovation in the hands of corporations will invariably place corporate interests over the wider development interests of poor people and thus will accentuate the unequal patterns of globalization.

Under the new Agreement, both parties agree to implement measures for protecting patented products, including

those owned by corporations in the EU that effectively patent plant and animal extracts. In contrast to the provisions of TRIPs, the references to protecting biodiversity are general in nature and are less clear on how they will be implemented. This is rather unfortunate. In these circumstances, in the follow-up reviews and negotiations, ACP-EU negotiations should categorically state how biodiversity will be protected, and should offer the commitment to give such protection a priority over commercial interests. More important, future negotiations should explore flexible measures for supporting ACP's rights to license the production of medicines. In the same vein, they should push for reforms of the TRIPs agreements to reduce the length and scope of patent protection and to create patent-free zones in least developed countries. Measures such as parallel imports, compulsory licensing, and price controls should be promoted in order to ensure that the poor people have access to essential medicines.

INVESTMENT SUPPORT

The new Agreement identifies support of investment and private sector development as one of its development strategies. The investment provisions are far more extensive than in the previous Lomé Convention — a welcome development. Foreign direct investment is potentially the most valuable source of private capital transfer. At its best, it can be used to provide long-term finance, transfer skills, build linkages with the local economy,

and promote export expansion.

However, the Agreement does not specifically point out the relation between the quality of investment and poverty reduction. Instead, conventional assumptions have been made about simply the quantity of investment. Any guidance for corporate practice is left to voluntary codes of conduct. However, the deeper argument is that corporate behavior is too important a factor for the issue of poverty reduction to be left to voluntary codes and standards defined by the corporate sector itself (Jalee, 1970).

It bears remembering that, left unregulated, transnational enterprises can exploit unfair labor practices, evade

Regional integration arrangements are likely to be fragmented rather than strengthened because 31 of the ACP countries are expected to negotiate individual economic partnership agreements with the EU.

taxes and produce high profits without offering benefits to the local economy. The EU and ACP should agree on binding standards for transnational corporations, to which the Agreement's provisions on investment are applied. These standards could be similar to those proposed by the European Parliament in

January of 1999 for European enterprises active in developing countries.

Above all, the Agreement does not advance mechanisms that allow ACP states to control the flow of portfolio capital. The absence of such a mechanism contributed to the recent financial crisis in South East Asia. An international tax on speculative capital transfer would allow the ACP states to avoid such instability that results from capital attraction.

REGIONAL INTEGRATION

Another equally problematic objective of the new agreement is regional integration. In our view, the proposed EPAs are likely, in many different ways, to fragment rather than strengthen integration arrangements in the ACP countries.

As discussed above, the new agreement offers LDCs Lomé-equivalent preferences. As a result, these countries will have no compelling reason to take part in the EPA arrangements with Europe. In this sense, an integration arrangement that excludes a significant number of ACP countries cannot be considered a good solution for the integration process in any region.

Second, the arbitrary way in which the EU has proposed the prospective regional groupings does not conform to the existing reality in most ACP groupings. In the African context, for example, it would be prudent for the EU to support the existing subregional integration schemes which have political support at the national and regional levels.

Third, the levels of institutional capacity that exist in most ACP subregions do not suggest that these regions are either on course to negotiate effectively or embark on free trade EPAs with the EU by 2008. In this regard, EU and ACP partners should consider a much longer transitional period than is currently permitted under the WTO rules. A longer transition period would provide ACP countries with adequate time to consolidate economic reforms in their respective countries and regions. It would, additionally, help them build the requisite negotiating capacities with the EU and WTO.

DEBT RELIEF AND AID

For almost three decades, unsustainable debt has been allowed to undermine the development efforts in many of the poorest ACP countries. Government revenue has been diverted away from essential investments areas such as health and education in order to repay foreign creditors, and excessive debt stocks have deterred investors.

At its most effective, aid and debt relief can help to provide the foundations for more self-reliant and equitable economic growth. Unfortunately, what currently passes for aid and debt relief is not effective aid. Much too often, donor priorities are driven by strategic considerations and commercial self-interest rather than by a concern for poverty reduction. The new Agreement takes a higher moral ground. It states that, on a case-by-

case basis, uncommitted resources from past indicative programs will be used for debt relief. In addition, some resources provided in the 9th replenishment of the European Development Fund (EDF) would contribute towards debt relief initiatives in the ACP, initiatives that have been approved at the international level. Provision is also made for technical assistance to ACP countries on debt management and on the use of available foreign currency, as provided by the agreement for servicing European Investment Bank debts on a case-by-case basis.

EU's decision to contribute a substantial amount of money to ACP debt incurred outside the ACP-EU framework is a welcome shift in approach. The agreement does not acknowledge the fact that neither the goals of the ACP-EU partnership nor its international development targets will be achieved without ACP-EU co-operation on the debt reduction initiatives in other forums. Incidentally, the recent record of the enhanced initiative for heavily indebted poor countries (HIPC) under the IMF and World Bank is not particularly impressive. It has failed to raise sufficient resources to address this pervasive development problem. The Debt Relief Trust Fund had obtained only \$2.4 billion in pledges and paid-in contributions from bilateral donors by mid-2000. Most eligible HIPC countries have not benefited from the initiative, in part because they have frequently failed to meet the IMF stabilization program targets, and, in part because

some of them have been embroiled in civil war. Not surprisingly, as of July of 2000, only 9 out of 41 eligible countries had qualified for debt reduction under the enhanced HIPC initiative. Worse still, though leaders at the G7 Summit in Cologne in July 1997 pledged to cancel \$100 billion of HIPC countries' debt as quickly as possible, three years later only about \$12 billion had been cancelled.

Given its central position in the world economy, it is important that the EU play a more critical role in influencing the pace and direction of initiatives on debt relief and poverty reduction by the Bretton Woods institutions. First, the EU should immediately mobilize its laggard members who have not cancelled 100 percent of their bilateral debt. It should also ensure that the cash-strapped fund for HIPC countries' debt relief fund is fully

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funded, closing the huge gap between needed resources and what has been mobilized. In addition, the EU may reconsider the cumbersome procedures of the poverty reduction strategy, which is currently bogged down by IMF conditionalities. In this direction, the EU

should spearhead efforts aimed at linking the new Agreement's implementation with the UN Social Summit Declaration and Plan of Action, in order to ensure that ACP countries are not faced with more uncoordinated and incoherent demands from the donor community. Finally, in order to ensure effective debt relief and the realization of development targets, the EU may also consider pushing for the cancellation of all unpayable debts incurred by ACP countries. The arguments for debt cancellation are disarmingly straightforward: debt repayment for poor countries is economically exhausting as it continues to block future development; repayment is politically destabilizing as it threatens social harmony; and it is ethically unacceptable as it hurts the poorest of the poor.

FINANCIAL COOPERATION AND INSTRUMENTS

The overall amount of EU financial assistance for the first five years of the Agreement is 15.2 billion Euros. This will comprise 13.5 billion Euros for the European Development Fund facility (EDF), and 1.7 billion Euros from the European Investment Bank (EIB) in the form of loans for the purpose of economic and industrial development of the ACP states on a national and regional basis. Of the EDF funds, 10 billion are reserved to support long-term development. This amount will be used, among other things, to finance the National Indicative Programs. Another 2.2 billion

Euros of the EDF will be allocated to finance the Investment Facility according to specific terms and conditions, with the remaining 1.3 billion Euros allotted to regional cooperation programs.

Considering inflation alone, it has been calculated that the aid volume of the new Agreement is 3 percent less in real terms than the 8th EDF (Wolf and Spoden, 2000). Sadly enough, the new Agreement budget fits neatly in the overall pattern of aid budget cuts among OECD countries. It is not likely to be adequate for implementing the international commitments made by the EU and ACP states. This precarious situation is likely to be compounded by more countries (East Timor and Cuba) joining the ACP group. During subsequent phases of the Agreement, the EU should be urged to fulfill its international commitments, including a minimum allocation of 0.7 percent of its GNP to Official Development Assistance and especially to ACP countries, in accordance with the UN Conference Resolution to reduce poverty by 50 percent and the 20-20 compact adopted at the Copenhagen Social Summit.

The new Agreement has introduced significant changes to programming and resource allocation. One positive change in comparison with the previous Lomé Convention is that ACP states, in drafting Indicative Programs, are now supposed to identify, work with and program resources for eligible non-state actors. However, the new system provides the EU with more discretionary powers in

allocating resources based on both needs and performance. Country needs will be assessed according to criteria relating to per capita income, population size, social indicators, the level of indebtedness, export earnings, losses and dependence on export earnings, in particular losses from the sectors of agriculture and mining, with more favorable treatment for the least developed, landlocked and island countries. Unfortunately, it is not clear how these different criteria will be weighted and calculated.

Performance criteria in the Agreement also seem vague and open to interpretation. Assessments will be made of progress in implementing institutional reforms, performance in the use of resources, effective implementation of current operations, poverty reduction, sustainable development measures and macroeconomic and sectoral policy performance.

Allocated resources will have two elements: an allocation to cover macroeconomic support, sectoral policies, programs and projects; and an allocation to cover unforeseen needs such as emergency assistance, contributions to internationally agreed upon debt-relief initiatives, and support to stabilize export earnings. Following mid-term and end-term reviews the EU may revise resource allocation to ACP states according to their needs and performance.

The above ambiguities could be addressed in various ways. The EU and ACP negotiators should revisit the criteria for calculating resource allocation for

the National Indicative Programs. The revised criteria should be transparent and objective, and should demonstrate their relationship to poverty alleviation. The ACP-EU Joint Parliamentary Assembly should be informed and consulted on the criteria on which allocations are based (Eurostep, 2000).

In subsequent negotiations, the ACP and EU should jointly agree to more precise and objective performance criteria that, as much as possible, should be country-specific and tailored to the conditions prevailing in ACP countries. Performance criteria should include an assessment of public finance that goes beyond a simple analysis of the budget. It should include: legislation of budget preparation, expenditure, and reporting and the quality of the procedures for these steps; the quality of budgetary control at governmental and national parliamentary levels; and the audit and analysis of realized expenditures.

To streamline administrative efficiency and accelerate procedures, managerial, operational and financial responsibilities should be more decentralized to the EU delegations. The Compendium should provide for a gradual transfer of decision-making to the EU delegations (Eurostep, 2000).

CONCLUSION

On the whole, the agreement is a great improvement on the previous Lomé Conventions. Its flexibility and the opportunity for non-state actors to participate in

the management of development cooperation are great steps in the right direction. It is hoped that, through political dialogue and conflict prevention and management, the Agreement can spearhead economic growth and social development in the coming years. Above all, the fact that the new agreement has been closely tied to other international development commitments is more reason why one can expect coordinated global efforts toward poverty reduction and sustainable development. ■

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