

**CONCORD Cotonou Working Group
Briefing paper**

The Revision of the Cotonou Partnership Agreement (CPA)

Representatives of EU member states and of the 78 African, Caribbean and Pacific (ACP) states initialled the text of the second revision of the Cotonou Agreement in Brussels on Friday 19 March. The signing of the revised agreement is foreseen for the next Joint EU-ACP Council of 3-4 June in Ouagadougou. However, no agreement was made on the issue of migration. EU and ACP states agreed in a joint declaration to continue dialogue on the migration article and report to the joint ACP/EU Council in June 2011.

The CONCORD Cotonou Working group has serious concerns about on the lack of transparency that has marked this second revision of the Cotonou Partnership Agreement. Full transparency would have enabled a better involvement of the European Parliament, the EU-ACP JPA, ACP national Parliaments and civil society in the EU and in the ACP countries. This would not only have enhanced legitimacy and democratic participation, but also enabled citizens to hold their governments to account.

This revision was not aimed at bringing fundamental changes to the agreement, but rather as an update of the agreement in line with current political and institutional developments, such as the Aid Effectiveness Agenda, the European Consensus on development and the Joint Africa-Europe Strategy. However a number of changes in the areas of institutional reform, policy coherence for development, trade, climate change deserve close attention.

A reinforcement of joint institutions and increased role of national parliaments

The revised text includes a number of positive changes towards the reinforcement of the joint ACP-EU institutions and an increased role of national parliaments.

Article 14 states that the joint institutions and the institutions set up under the Economic Partnership Agreements shall endeavour to ensure coherence and complementarity as well as an effective and reciprocal flow of information. Meetings at the level of Heads of States or Government are also foreseen.

The Joint Parliamentary Assembly also saw a reinforcement of its prerogatives. Article 17 details the role of the JPA in discussing issues in areas of the ACP-EU partnership, such as the Economic Partnership Agreements and Country and regional strategy papers, which shall be transmitted to the JPA by the European Commission.

The revised text also stresses the role ACP national parliaments and decentralised authorities, at both national and regional level, in the development process. ACP national parliaments are now considered proper actors of cooperation. The text foresees that ACP national parliaments, local and decentralised authorities and Non State Actors "should be provided with capacity building support in order to reinforce the capabilities of these actors, particularly with regards organisation and representation, and the establishment of consultation mechanisms, including channels of communication and dialogue, and to promote strategic alliances."

Political dialogue

The revised Article 8 on political dialogue reinforces regional integration by demanding the full involvement of relevant ACP regional organizations and the African Union in the dialogue, where appropriate. Regional organizations and the African Union are now considered proper actors of cooperation in the partnership. Also aid effectiveness is seen as a full part of the dialogue as well as climate change.

Policy Coherence for Development, a weak mechanism

The revised Article 12 on Policy Coherence states that the parties are committed to addressing policy coherence in a targeted, strategic and partnership oriented way, including by strengthening dialogue on the issue. It is now foreseen that the European Commission will inform, in good time, the ACP Secretariat of planned proposals of measures that might affect the interests of ACP states. Under request of ACP States and the ACP Group, consultations shall take place. Following the consultation ACP states can also submit their concerns in writing to the Community as well as proposals for amendments. If the Community does not accede to the ACP states' submissions, it shall advise them of the reasons. The revised Article 12 remains unsatisfactory at many levels. It

does not confer the responsibility to the EU to ensure that its policies are coherent with development. The EU shall only inform the ACP states of its intentions, while the ACP States and the ACP group will be responsible for raising their concerns. There is no guarantee that the EC will take their concerns into account. In addition, input of the ACP Group is foreseen at policy-making stage alone, and no complain, or monitoring mechanism is foreseen at the implementation level.

We invite the ACP Group to devise a systematic mechanism for making effective use of Article 12. The Joint Parliamentary Assembly should engage in the discussions and PCD should become an item in its agenda. The JPA delegations should envisage the recommendations put forward by the Rapporteur on the EP own-initiative report on PCD, which contains several suggestions for enhancing the role of the JPA on Policy Coherence for Development.

Climate change, a cross-cutting issue in the agreement

We welcome the fact that climate change has been recognized as a cross-cutting issue in the agreement. A clear link was established between climate, agriculture and food security. Article 32 bis on climate change also foresees a strengthened support to measures of mitigation and adaptation to the consequences of and the threats posed by climate change, including through institutional development and capacity building.

Trade

With regard to Title on economic and trade cooperation, the revision has removed obsolete articles on the EPA negotiations such as references to past dead lines, while leaving the development principles that must guide the EPA negotiations intact. It has introduced a new monitoring process of the EPA negotiations and implementation under the Joint Ministerial Trade Committee and also consultations on trade matters and the possible impact of EU trade measures on the ACP countries. Other articles on trade and trade related issues (39-52) have remained intact except to introduce references to both national and regional cooperation strategies.

The revised agreement now also says that the Parties “will take all the necessary measures to ensure the conclusion of new WTO compatible EPAs”, but what such EPAs should contain remains open as before and the subject of the negotiations. The WTO in any case does not require that EPAs must be free trade agreements, not that they should contain the liberalisation of services, investment, government procurement, etc as the EU has been pushing for, for more than seven years now.

Migration, still unresolved

The revision of Article 13 on Migration is a major stumbling block to the negotiations. The two sides failed to reach an agreement by the extraordinary ACP-EU Council on 19 March. EU and ACP states agreed in a joint declaration to continue dialogue on the migration article and report to the joint ACP/EU Council in June 2011.

The bulk of the disagreement lies on the clause on readmission. The EU side would like the clause on readmission in the Cotonou Agreement to become self-executive and binding for all ACP countries without needing complementary bilateral agreements. This will imply unmanageable obligations for many countries and hence an increased risk of migrants rights violations throughout the process of readmission. In no way should EC and MS ODA be dependent on the signature of readmission agreements (being bilateral or multilateral). By making development aid conditional on cooperation on border control, the EU is turning development aid into a tool for implementing restrictive and security-driven immigration policies which are at odds with its commitment to make migration work for development.

Article 13 should rather be focusing on concrete opportunities for increased mobility and ensuring that ACP states are assisted in their national efforts to ‘make migration work for development’ (countering of the negative economic and social effects of brain drain and care drain, sustainable migration opportunities, facilitating remittances...). This would bring progress towards Policy Coherence for Development in the migration area. Opportunities of legal migration, including for low skilled workers, and respect of migrants’ rights are necessary conditions for exploiting the development potential of migration. Provisions on legal migration should be as strong and binding. Finally, EU and ACP states should ratify the UN Convention on Migrants Rights and ratify it themselves.

The way forward

The revision of the CPA will have an important impact on EU and ACP relations and on how the funds of the European Development Fund (EDF) are to be used in the coming five years. We therefore urge European and ACP parliamentarians to actively engage in the process by scrutinizing the changes agreed upon. They should request for a public debate within national parliaments, the JPA ACP-EU and the European Parliament. Also special follow up based on full information of the ongoing debate on migration is needed.