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RECOMMENDATION

on the proposal for a Council decision concerning the conclusion of the Partnership Agreement between the African, Caribbean and Pacific States on the one part, and the European Community and its Member States, on the other (2117/2000 – COM(2000) 324 – C5-0417/2000 – 2000/0124(AVC))

Committee on Development and Cooperation

Rapporteur: Didier Rod

Symbols for procedures

- * Consultation procedure
majority of the votes cast
- **I Cooperation procedure (first reading)
majority of the votes cast
- **II Cooperation procedure (second reading)
majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position
- *** Assent procedure
majority of Parliament's component Members except in cases
covered by Articles 105, 107, 161 and 300 of the EC Treaty and
Article 7 of the EU Treaty
- ***I Codecision procedure (first reading)
majority of the votes cast
- ***II Codecision procedure (second reading)
majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position
- ***III Codecision procedure (third reading)
majority of the votes cast, to approve the joint text

(The type of procedure depends on the legal basis proposed by the Commission)

Amendments to a legislative text

In amendments by Parliament, amended text is highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). These suggested corrections are subject to the agreement of the departments concerned.

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PROCEDURAL PAGE

By letter of 27 July 2000 the Council requested Parliament's assent pursuant to Article 300(3), second subparagraph, in conjunction with Article 310 of the EC Treaty on the proposal for a Council decision concerning the conclusion of the Partnership Agreement between the African, Caribbean and Pacific States on the one part, and the European Community and its Member States, on the other (2117/2000 – COM(2000) 324 – 2000/0124(AVC)).

At the sitting of 4 September 2000 the President of Parliament announced that she had referred the proposal to the Committee on Development and Cooperation as the committee responsible and the Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy and the Committee on Industry, External Trade, Research and Energy for their opinion (C5-0417/2000).

The Committee on Development and Cooperation appointed Didier Rod rapporteur at its meeting of 27 June 2000.

The committee considered the proposal for a Council decision and the draft recommendation at its meeting of 11 October 2001

At its meeting of 20 November 2001, it adopted the draft legislative resolution unanimously.

The following were present for the vote: Joaquim Miranda, chairman; Margrietus J. van den Berg and Fernando Fernández Martín, vice-chairmen; Didier Rod, rapporteur; Teresa Almeida Garrett (for Jürgen Zimmerling), John Bowis (for John Alexander Corrie), Giuseppe Brienza, Marie-Arlette Carlotti, Maria Carrilho, Nirj Deva, Richard Howitt, Renzo Imbeni, Glenys Kinnock, Karsten Knolle, Paul A.A.J.G. Lannoye, Miguel Angel Martínez Martínez, Hans Modrow, Ulla Margrethe Sandbæk, Francisca Sauquillo Pérez del Arco, Michel Ange Scarbonchi (for Jean-Claude Fruteau), Karin Scheele (for Karin Junker), Charles Tannock (for Bashir Khanbhai), Bob van den Bos and Stavros Xarchakos.

The opinions of the Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy and the Committee on Industry, External Trade, Research and Energy are attached.

The recommendation was tabled on 21 November 2001.

DRAFT LEGISLATIVE RESOLUTION

European Parliament legislative resolution on the conclusion of the Partnership Agreement between the African, Caribbean and Pacific States on the one part, and the European Community and its Member States, on the other (2117/2000 – COM(2000) 324 – C5-0417/2000 – 2000/0124(AVC))

(Assent procedure)

The European Parliament,

- having regard to the proposal for a Council decision (COM(2000) 324)¹,
 - having regard to the agreement between the European Community and the African, Caribbean and Pacific States (2117/2000)²,
 - having regard to the Council's request for Parliament's assent pursuant to Article 300(3), second subparagraph, in conjunction with Article 310 of the EC Treaty (C5-0417/2000),
 - having regard to Rules 86 and 97(7) of its Rules of Procedure,
 - having regard to the recommendation of the Committee on Development and Cooperation and the opinions of the Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy and the Committee on Industry, Energy and Research (A5-0412/2001),
1. Gives its assent to the Partnership Agreement;
 2. Instructs its President to forward its position to the Council and Commission, and the governments and parliaments of the Member States and the ACP countries.

¹ OJ C 240, 28.8.2001.

² OJ L 317, 15.12.2000.

EXPLANATORY STATEMENT

I. FROM LOMÉ TO COTONOU: WHAT ARE THE LESSONS TO BE LEARNED?

A. LOMÉ'S ORIGINALITY

The first Lomé Convention was signed in 1975 by 46 African, Caribbean and Pacific countries and the nine Member States of the European Community. It created a model of development cooperation that was interregional (between two groups of countries at different levels of integration¹), multidimensional (covering both development aid and trade), and contractual (it was concluded for five years and the overall budget provided the guaranteed funding essential for the ACP countries' strategy and long-term planning of their development projects. The most original feature of this cooperation was the idea of partnership, which conferred equality between the signatories and respect for their sovereignty and their mutual interests, and which was given practical form by the ACP-EU joint institutions². In fact the Member States' aim, via Lomé, was to devise a framework for their relations with their former colonies, now independent.

The Lomé Convention has been substantially influenced by the international context, which has been dominated by the developing countries' claims in favour of a new world economic order. The key concepts of sovereignty, equality, interdependence and endogenous development constituted the main thread of cooperation. Aid to planned development, the preferential and non-reciprocal trade system, accompanied by various product-related protocols, and the mechanisms for stabilising export income on primary products (Stabex and Sysmin) formed a coherent development strategy based on reduction of North-South structural inequalities.

B. NEW CONDITIONS IN SUCCESSIVE CONVENTIONS

1. The political aspect

In the first two Lomé Conventions the principle of political neutrality prevailed. It was only after the fall of the Berlin Wall in 1989 and the subsequent world geopolitical upheavals that the European negotiators asked for a human rights clause in Lomé IV (Article 5).

In Lomé IVa the political dimension has been extended to respect for democratic principles, the rule of law and good management of public affairs, and strengthened with the introduction of unilateral sanctions (which can go as far as suspension of aid) against ACP states that breach these principles (Article 366a of Lomé IV, taken over in Article 96 of Cotonou). The problem is that the political conditions are one-way. When the human rights of ACP nationals in the EU are flouted, the ACP partners have no way of penalising the European countries. Moreover, breaches of socio-economic rights, which are not only found in the ACP countries, cannot be penalised. Above all, sanctions have often been applied according to criteria that lack transparency and objectivity, and in an unbalanced way to say the least.

¹ The EU is the result of a long process of integration whereas the ACP group is primarily bound together by its relations with the European Union.

² The ACP-EU Council of Ministers; the ACP-EU Joint Assembly; the Committee of Ambassadors.

Furthermore, promotion of human rights in the ACP countries has often been reduced to the mere fact of holding elections. In the absence of conditions conducive to free and fair elections and a comprehensive policy to democratise all aspects of society, there is a risk that the EU's policy is providing backing for a façade of democracy.

2. Economic and trade aspects

The Lomé Convention was intended to break the ties between the colonial countries and their former colonies but has not put an end to the associated aid. There is no budget for the European Development Fund; it is funded by direct contributions from the Member States and administered by a committee made up of their representatives. Consequently, projects are often carried out on the basis of public contracts awarded to European companies. Efforts to make aid effective take the form of reform of allocation criteria, which increasingly seems to entail economic conditions.

In Lomé III, aid for projects gave way to aid for sectoral programmes, intended to concentrate aid on a limited number of sectors, to avoid spreading it too thinly. But the real turning point came with the Lomé III Special Programme for Africa (or sectoral import programme), which is in fact aid towards balance of payments equilibrium. Since Lomé IV, the European Community has been directly involved in resolving ACP budget and monetary imbalances by entering a structural adjustment facility, which is granted subject to the ACP States' commitment to macro-economic reforms.

The structural adjustment programmes have taken the Lomé Convention from long-term development to short-term adjustment, from structural and social reform to economic and monetary contingency measures, from seeking endogenous and locally centred development to application of stereotyped policies, from equality between partners to European domination, from contracts to conditions. These practices have limited the ACP countries' freedom of choice in defining their development policies. Their 'partners' sovereignty has made itself felt in implementing these policies, in management of their aid, and in monitoring and assessing their programmes. Relations between the ACP and the EU have openly taken on the appearance of those between dominator and dominated. The Lomé Convention has lost its basic principles.

The conditions for granting aid, whether economic or political, have allowed the donor countries to impose their free trade model of development. The four successive Lomé Conventions have thus incorporated new dimensions and packed in various provisions without tackling the structural factors that have contributed to the ACP countries' impoverishment.

C. NO POLITICAL ASSESSMENT OF LOMÉ

After 40 years of multilateral and bilateral cooperation, then assessment of development aid generally remains disappointing. The Lomé Convention has not succeeded in improving the ACP countries' economic, social and political situation. On the contrary, poverty in most ACP countries has increased, aggravated by the outbreak of conflicts and environmental degradation that has led to exodus. This has led to an increase in emergency humanitarian aid, which ultimately conceals development policies' long-term failure. The gap is widening not only between the industrialised countries and the countries of the south, but between rich and poor people within the countries of the south (and within the countries of the north, too). According to the UNDP, 20% of the world's population possesses 85% of the global income, while 20% (the

poorest) receive only 1.4%. 600 million people live on less than a dollar a day – below the poverty threshold.

As ACP-EU cooperation has not borne fruit as hoped, there have been numerous debates on renewal of the partnership. But has this ‘failure’ really been investigated?

1. Internal factors: why cooperation has not worked

(a) *Inefficient procedures*

Slow procedures and release of funds and the lack of transparency in procedures have prevented the Conventions from working smoothly. A thorough overhaul is therefore required.

(b) *Poor management of national funds and international aid funding*

This argument has often been invoked. It is clear that some resources have been assigned to unproductive projects or even diverted from their original objective by a system of corruption that has reached high levels in certain countries. But use of aid to reimburse foreign debt or reduce the government deficit has also not helped social development in the countries concerned. It is a question of lack of debate and of democratic control. Development cooperation has become a matter for experts, where decisions are taken by governments under international influence, without the consent of the people concerned. Development ought to be based on a plan for society decided jointly by the people concerned at all levels. Only a pluralist and participatory approach can activate sustainable development for people in the localities concerned.

(c) *Cohesion of the ACP group*

When the first Lomé Convention was signed, the Third World was united in solidarity in the Group of 77, which included the ACP countries. Divisions among the ACP countries, along geographical, language and development lines, have subsequently been accentuated and the ACP Group has lost its weight in negotiations and its decision-making power.

2. External factors: lack of consistency in development policies in an unbalanced international system

It is important to remember that the Lomé Convention was born of the wish of European countries to redefine their relations with their former colonies by becoming involved in the ACP countries’ development. But this geostrategic interest has gradually lost its relevance for the European states, especially after the fall of the Soviet bloc. The European Community has turned towards the east and the prospects for enlargement have relegated the ACP countries to the second and possibly third division (behind the Mediterranean countries). It is a revealing fact that there are no ACP countries among the ten leading beneficiaries of Community aid.

(a) *The structural imbalance of world trade*

The ACP countries’ economic structures, set up by the former colonial powers to meet the needs of their populations, are based on the production and export of a limited number of raw materials. These commodities, which have a low value-added, remain very cheap on the world market, indeed terms of trade have deteriorated since the 1970s. Furthermore, there have been significant price fluctuations because of variability of supply, which in turn is due to unpredictable factors (e.g. weather). Conversely, the ACP countries buy manufactured goods in the European market place. This inequality in the balance of trade increases the ACP countries’ dependence on external aid and aggravates their debt situation. Development cooperation has

only perpetuated this unequal system of international trade, instead of redirecting the developing countries' economies to meet local people's vital needs.

(b) *Debt, structural adjustment and liberalisation*

The burden of debt on the southern countries' economies, especially the African countries, has increased still further. In 30 years, the southern countries' external debt has increased from \$ 50 000 000 000 to \$ 2 500 000 000 000. In 1999 debt servicing represented \$ 300 000 000, whereas public development aid did not exceed \$ 50 000 000 000 (0.24% of the OECD countries' GDP). The UNDP has calculated that \$ 40 000 000 000 a year is required for food, water, education and health care in the poorest countries. The least advanced countries (40 of which are in the ACP) allocate nearly 40% of their GDP to debt servicing alone, to the detriment of investments in social services, which are essential for their sustainable development. Every year sub-Saharan African pays back \$ 15 000 000 000, four times more than it spends on health and education. Thus debt absorbs almost all the southern countries' resources.

In reality, debt provides a way for the northern countries to dominate and control the southern countries. It is used by creditor countries to impose austerity policies on debtor countries as part of structural adjustment programmes aimed at restoring balance of payments equilibrium, notably by privatisation and budget restrictions. Far from improving economic development and strengthening social cohesion, these policies have contributed to social exclusion and the deterioration of eco-systems. More seriously, by undermining the legitimacy of state structures, these reforms have led to built-in political instability and a stark disintegration of the state and society, often sources of conflict (as recently in the Congo, Sierra Leone, Liberia, Angola, etc.).

The conditions have also forced the opening of southern markets: some ACP states have been obliged to cancel all forms of support to farmers in order to comply with IMF and World Bank loan terms. In Jamaica the government has been obliged to open its market to European concentrated milk imports, which increased from 200 tonnes a year between 1990 and 1993 to over 4000 tonnes a year in 1995-1996, and which have gradually ousted the less competitive, small local milk producers. This is a revealing example of the harmful effects of free trade between two unequal parties and shows that opening the southern countries markets can only serve to dismantle and weaken their economies and nascent industries.

Despite the partnership concept, the ACP countries have not escaped macro-economic and liberalisation measures conceived and decided by bilateral and multilateral donors but also by the European Union.

(c) *The inconsistency of European policies with regard to the development objective*

Firstly, 60 to 80% of aid to ACP countries returns to the European Union in the form of acquisition of equipment and services and the involvement of Western experts to the detriment of skilled local labour. It has even been noted that 40% of aid from the Member States is explicitly tied to products and services from companies in the donor countries. A recent Joint Assembly resolution noted with concern that only 25% of EDF contracts really benefited the ACP countries. This goes against a sustainable development policy, which must be based on local human and material resources. Furthermore, these practices help increase the southern countries' dependence on rich countries and represent an unproductive use of scarce aid resources.

Furthermore, Community export subsidies, notably for agriculture (under the common agricultural policy), allow European farmers to sell their products at low prices on world markets

but undermine development of local and regional markets in the southern countries. For example, western Africa, which was traditionally supplied with local beef and beef from the Sahel countries has been flooded with low-price European exports, especially since the BSE crisis. European exports grew sevenfold between 1981 and 1991. At the beginning of the 1980s, two thirds of the beef consumed in Côte d'Ivoire came from Mali and Burkina Faso, compared with one third at the beginning of the 1990s. Not only do these practices disrupt the local market and hamper southern rural populations' development prospects, they run counter to a consistent cooperation and development policy. Between 1983 and 1993 the European Union spent about EUR 450 m. on subsidies for exports of agricultural products to West Africa, while at the same time spending several tens of millions of euros on helping the beef industry in this region.

So long as development objectives and a rebalancing between north and south are not priorities for the European Union, and so long as European agriculture, strongly geared to productivity, is artificially maintained to the detriment of quality and food production, the North-South divide will grow and malnutrition will endure. We do not need GMO crops to feed the world but more rational development and regionally-based supplies. Similarly, bilateral fishing agreements between the European Community and some ACP countries limit local fishermen's activities in territorial waters and endanger stocks for local people and their means of subsistence.

The combination of these internal and external factors lies behind the ineffectiveness of cooperation under Lomé. As most of these conditions have been perpetuated under Cotonou, doubts may legitimately be cast on its ambitions and success.

II. THE NEW ACP-EU PARTNERSHIP AGREEMENT: THE COTONOU AGREEMENT

The signing of the Cotonou Agreement in Benin on 23 June 2000 was greeted with great relief by the ACP and the European states. It was perceived as a victory as there had been no progress in cooperation between the European Community and the ACP countries. In 1994, half way through the renegotiation of the fourth Lomé Convention, a number of observers, including Mr Marin, Commissioner for cooperation and development, thought that Lomé IV would be the last ACP-EU Convention. We may recall the four scenarios imagined by the Commission in its 1997 Green Paper¹:

- the status quo: a global agreement with all the ACP countries;
- a very general comprehensive agreement supplemented by bilateral agreements;
- Lomé broken up into regional agreements;
- a specific agreement with the least developed countries.

The publication of this Green Paper was followed by lively discussion in both the European Union and the ACP countries, especially in the ACP-EU Joint Assembly. The European Parliament was in favour of renewing and strengthening ACP-EU cooperation². In the Libreville

¹ Green Paper on relations between the European Union and the ACP countries on the eve of the 21st century, European Commission, 1997.

² European Parliament resolution of 2 October 1997.

Declaration¹, the ACP countries affirmed their wish to maintain the cohesion of the ACP group.

The new agreement includes new provisions, which are absolutely vital for real partnership. However, there is a risk that its basically liberal philosophy, totally at odds with the original Lomé vision, will run counter to genuine, sustainable social and economic development by the ACP countries. The question remains: is the free trade economy capable of ensuring sustainable development in the ACP countries? How can the southern countries compete with the industrialised countries on world markets?

Furthermore, application of the Cotonou Agreement will be decisive, especially if it is a framework agreement signed for 20 years, which leaves a large margin of manoeuvre for later negotiations (revision of the agreement and the budget every five years; new trade arrangement to be decided before 2008). Much remains to be done in respect of implementation and those involved in the partnership have a vital role to play. But the European Parliament will not be involved in the later decisions.

A. ELEMENTS FOR CHANGE

1. Objectives and priorities

(a) Objectives

The Cotonou Agreement sets out reduction of poverty as its main objective, which we can only endorse. We are, however, entitled to ask whether the development cooperation objective of earlier Lomé Conventions was not already working towards combating poverty and improving living conditions.

The idea is not new. It also corresponds to the World Bank line in recent years. Although this common approach may seem positive as regards consistency of the large donors' policies, it also reduces the visibility and specific impact of EU action.

The Cotonou Agreement also states that this objective will be 'consistent with ... the gradual integration of the ACP countries into the world economy'. This represents a radical change of direction compared with Lomé, which aimed at reform of the international economic order. In fact, integration of the ACP countries in the world economy was already included in Lomé IV. The aim of cooperation under Lomé was 'comprehensive self-reliant and self-sustained development [of the ACP states] based on their cultural and social values, their human capacities, their natural resources and their economic potential'. The Cotonou Agreement subscribes to the concept of one-way development, in line with market and liberalism arguments. There is, however, evidence that uncontrolled liberalisation only increases the inequalities between rich and poor.

(b) Principles

A new and important principle has emerged: participation and the opening up of the partnership to various actors, particularly those from civil society. The central role of dialogue is emphasised.

But in general, as regards terminology, the Cotonou Agreement's principles represent a loss of

¹ Libreville Declaration, First Summit of the ACP Heads of State and Government, 7 November 1997.

ground, compared with Lomé. Respect for the partners' sovereignty has disappeared in favour of 'ownership of the development strategies', a trite phrase put forward as a considerable advance – and the term 'ownership' carries a hint that the strategies might have been devised elsewhere. Moreover, differentiation 'according to a partner's level of development, its needs, its performance and its long-term development strategy' challenges what has been achieved in the way of security and predictability in cooperation. If aid is to be supplied on the basis of the performance, countries will no longer have any guarantees for long-term planning. The principles of differentiation and regionalisation are also contrary to the principle of equality between partners.

2. Actors

(a) Civil society

The Lomé Convention primarily dealt with cooperation between states. Lomé IVa, however, introduced cooperation between local institutions, in the framework of decentralised cooperation.

In recognising the role of civil society, the Cotonou Agreement has made an important and very positive innovation. The text includes two fundamental principles. Non-state actors will 'be informed and involved in consultation on cooperation policies and strategies ... and on the political dialogue', which means that they will be involved in defining the country's forward planning priorities. They will also 'be provided with financial resources¹', which will enable civil society actors, including human rights associations in countries where human rights are flouted by the state, to have direct access to possibilities of Community funding.

Nevertheless the concept of civil society covers a wide range of actors: from associations to trade unions and professional organisations. The components of civil society defend specific interests through their organisations. Consequently they are often reproached for not being representative. Moreover, the Cotonou Agreement does not lay down procedures for consultation of civil society. At this level, the Commission's request for strategy documents for each country before ratification of the agreement, although civil society is supposed to be involved in drawing them up, is contrary to the stated aims. How can civil society really be consulted in such a short period of time? In fact, the concept's lack of precision raises fears of abuses and that civil society is simply being used: by the European Community, which could see this as a means of further weakening the states, or by the ACP governments, which fear competition with civil society, for access to funding in particular, and also for reasons of credibility.

If civil society is to be involved in implementing development cooperation, there is a need to clarify its scope and define the rules of the game. Current progress, especially in the light of the ACP Civil Society Forum, held under Belgian Presidency auspices, gives rise to hopes that those concerned will be able to organise themselves through structured and coherent national and regional representatives' groups.

(b) The role of the state

States have often been weakened by reforms imposed by international donors as part of structural adjustment programmes. Massive public-sector lay-offs have increased their administrative and managerial inefficiency and impaired capacity to adopt a self-reliant development strategy. Thus, opening up the participatory dimension must not weaken them further, but help give states

¹ An amount of 15% is set aside for the participation of civil society in the implementation of the agreement.

legitimacy and strengthen their capacities.

In fact, with a view to sustainable development, it is now clear that the role of the state has to be reconsidered and reasserted: experience and past failures show that the state is essential in this process. State intervention is crucial for implementation of policies of social justice and equity. Respect for human rights, promotion of public health, access to education for all, and environmental protection can be ensured only by an efficient state that is capable of taking action. But states can only be rehabilitated by greater democracy, to restore their legitimacy and ensure their principal vocation: defence of the general interests of the population.

3. The political dimension

The political dimension is an important feature of the Cotonou Agreement. Lomé IV contained a reference to human rights (Article 5) and Lomé IVa introduced conditionality (Article 366b). However, full inclusion of the political dimension in the Cotonou Agreement (Title II) is a major and very positive innovation.

(a) Political dialogue

The joint ACP-EU Council of Ministers is responsible for political dialogue and tackling subjects that have effects on the sustainable development of the ACP countries, such as international trade, the common agricultural policy, the fisheries policy, etc. The agreement states that ‘the Parties shall regularly engage in a comprehensive, balanced and deep political dialogue leading to commitments on both sides’. However there is no binding provision for establishment of such dialogue in the event of a conflict or a situation that affects the ACP partners’ interests. It should also be noted that the ACP countries have no power of sanction when their nationals are subject to human rights violations in the EU countries.

Furthermore, the ‘Everything But Arms initiative – opening of the European duty-free market to the least developed countries, without consulting the ACP partners and without taking account of the impact on the populations – does not augur well for this dialogue. The ACP countries strongly criticised this unilateral EU decision at the Joint Council of Ministers meeting in May 2001. Another example that aroused ACP indignation was suspension of aid to Haiti, without complying with the consultation procedure. These two examples show that the European side does not take this innovation seriously, although it is an important instrument for the success of development cooperation.

(b) Good governance

Along with trade, the question of good governance has long been a major barrier to conclusion of an agreement. The ACP countries did not share the view that good governance had to be considered an essential part of the agreement and consequently did not want it to be subject to the non-execution clause. While considering good governance to be a means of strengthening ACP-EU cooperation and improving the results of national policies, the ACP countries warned the European Union about various imprecise definitions liable to cause misunderstandings. In the end, only the fight against corruption was the subject of a specific provision for suspension of cooperation in the event of flagrant violation of this principle. This relates to institutionalised corruption and not occasional practices that can be imputed to one individual or that arise from the ACP countries’ weakness of structure.

However, choice of the term good governance is not fortuitous. This vague term was introduced

at the end of the 1980s by the World Bank in relation to sound management of public affairs. In fact, the term was interpreted in a way that would direct the political, economic and social choices of the countries assisted. In this case good governance means management in accordance with the financial institutions' objectives. Since then, the concept has moved on to become part of the current vocabulary of international organisations such as the IMF, the UNDP, the EU and the NGOs, without any consensus on a clear definition. Another interpretation of good governance might be a fair redistribution of wealth to all populations by a democratically elected and politically responsible government. Good governance should also cover compliance with international agreements such as the Universal Declaration of Human rights, economic, social and cultural rights, the United Nations Declaration on the Right to Development, international conventions on the environment, etc.

(c) *Conflict prevention and resolution*

The conflicts that ravage the ACP countries are an integral part of the cycle of poverty in that they are both the cause and consequence of conflicts. The tendency in the last few years has too often been to increase the financing of emergency humanitarian aid as a way of compensating for failure to intervene to settle conflicts. The clause on conflict prevention and resolution and their inclusion as a new dimension of international cooperation shows that the problem of poverty has been taken into account from all angles and in this respect it is a particularly constructive innovation. The Cotonou Agreement is very ambitious in this respect: "the parties shall pursue an active, comprehensive and integrated policy of peace-building and conflict prevention and resolution ... by addressing their root-causes in a targeted manner and with an adequate combination of all available instruments". Nevertheless the text remains very general as regards application and action to deal with the underlying causes of conflict: there is no guarantee that the EU will be able to find the means to match its ambitions in this area.

(d) *Migrations*

This theme was raised late in the negotiations by the European party. Discussions focused on the return of illegal immigrants, especially those who did not benefit from the right of asylum. It is most regrettable, in an agreement negotiated for a long period, that the fundamental question of immigration was not tackled earlier and more extensively. The Cotonou Agreement offers an ideal framework for political dialogue in this area. A responsible immigration policy must tackle problems arising from the situation in the countries of origin and the rights of immigrants resident in the European Union.

The EU's current policy rests on a security-based vision which cannot achieve lasting results and in the long term will not stem the increasing flow of migrants. The zero immigration myth and its corollary zero tolerance encourage more than they dissuade clandestine immigration, which is widely exploited by well organised networks.

Migratory flows will not be reduced while factors that encourage immigration are not dealt with in parallel. A policy of sustainable development that facilitates the ACP countries' commitment to stem migratory flows is needed to deal with this situation. The second part of the immigration policy concerns nationals of ACP countries who are resident in the European Union and who are often subject to discrimination. What is needed is an integration policy based not only on equal treatment in terms of economic and social rights but also on the recognition of civil, cultural and political rights.

Immigration policy was recently reviewed. In the light of demographic trends and economic

necessity, the European Union decided to open its borders to certain categories of immigrant, notably in the field of new technologies. This quest for skilled and cheap labour does not only contribute to the brain-drain in the developing countries but is contrary to the policies of developing the ACP countries' capacities. There is a risk that, after slavery, this will represent a new pillaging of resources in the interests of the richest countries.

B. REFORM OF FINANCIAL AND TECHNICAL COOPERATION

1. Better management and a rationalisation of aid

(a) Changes in the nature of aid

The Lomé Convention was dominated by three types of aid: programmable aid (allocated on a geographical basis by National Indicative Programmes); non-programmable aid (allocated for a specific purpose: fall in earnings from exports (Stabex and Sysmin), emergency aid, structural adjustment); and loans (granted by the EIB).

In the Cotonou Agreement, the EDF instruments have been regrouped and rationalised. All resources will be channelled through two instruments: a long-term budget which will cover all non-reimbursable aid, and a budget providing risk capital and loans to support private sector development. The first budget will be used to finance traditional National Indicative Programmes plus macro-economic support, support for sectoral policies, aid to alleviate balance of payment problems, decentralised cooperation and debt relief. This means that Stabex and Sysmin no longer exist as separate instruments with a specific budget. It will be possible to help the ACP countries deal with export income fluctuations but only in the framework of planning by country and in terms of macro-economic criteria such as worsening of the budget deficit (a criterion that is neither objective nor transparent).

The nature of Community aid continues to shift in this way (as was begun under Lomé) towards sectoral budget aid programmes (instead of aid to projects). These large-scale sectoral interventions are intended to enhance the impact of cooperation and facilitate coordination with other donors. National indicative programmes will thus be dominated by this double objective: concentration of aid on key sectors and heavy investment in a limited number of programmes. In this connection, while we do not wish to anticipate ACP countries' priorities in their country strategy papers, it is of vital importance that the European Community undertakes to give financial support to strengthening public services relating to education, health, justice, environmental protection, etc., plus administrative and institutional capacity. Nevertheless this urgency seems compromised by the prospect of liberalisation in the public sectors, reaffirmed by Cotonou.

(b) More selective and more flexible new procedures for granting aid

In future, the five-yearly budgets will be purely indicative; they will be subject to revision as requirements emerge and on the basis of the ACP countries' performance. These new provisions thus run counter to the concepts of security and predictability of resources and hamper long-term planning.

This approach introduced merit or performance criteria for the allocation of aid (in addition to need criteria). The new agreement is based on a rolling programme, i.e. during implementation it will be possible to revise the amounts granted upwards or downwards on the basis of performance. This marks the end of allocation and automatic activation of aid.

The main question is: how will it be possible to assess a country's performance objectively? What criteria will be used? Measuring a country's sustainable development and improving the living conditions of the poorest people through their access to basic services such as food, education, health care, etc., seems an adequate area for assessment. But Cotonou does not follow this long-term approach. By suggesting liberalisation of services and subscribing to the agreement on intellectual property rights (which authorises the patentability of living organisms), it is endangering the ACP countries' attempts at endogenous development.

2. A step backwards in certain areas: the example of the environment

The fourth Lomé Convention included the environment in its areas for action. Its inclusion in Title I showed its importance and priority given to it. Article 34 stated the imperative need for many ACP states to conserve natural resources. Failing this, any development efforts, especially those aimed at the priority objectives of food self-sufficiency and food security, would be hindered. Title I made provision for any action or programme put in place by the ACP-EC partners to take a preventive approach (to avoid harmful effects on the environment), a systematic approach, to ensure ecological viability at all stages, and a trans-sectoral approach. Above all, Lomé stressed the need for coherent modes of development that have due regard for ecological balances. In particular, Article 39 prohibited all direct or indirect export of hazardous and radioactive waste to the ACP states and such imports by the ACP countries. Provision was made for environmental impact assessments. The Community had to provide available technical information on pesticides and other chemical products.

However, the Convention did not include any binding mechanism to ensure detailed, practical application of these objectives, or the accompanying measures needed for the ACP countries to check compliance with them (e.g. by means of a pool of experts or a fund to provide emergency aid to an ACP state concerned by an illicit case of importing hazardous waste from the Community).

In Cotonou, the environment is relegated to the background: the idea is to limit the environmental impact of development. There are no longer any bans on the export of hazardous waste; there is merely mention of taking account of 'issues relating to the transport and disposal of hazardous waste'. No connection is made between environmental protection, sovereignty in respect of food, and reduction of poverty. The environment must be part of any development strategy. Safeguarding and rational exploitation of resources is a precondition for improvement of living conditions in the immediate future and safeguarding those of future generations. Economic optimisation of natural resources (including raw materials) is a *sine qua non* of rebalancing North-South relations.

Just as the Cotonou Agreement incorporates the rules of economic and international financial institutions, in the interests of consistency and compatibility it must take account of the objectives and mechanisms of international environment conventions (the Convention on Climate Change and Kyoto Protocol, the Biodiversity Convention, the Montreal Protocol on Substances that Deplete the Ozone Layer).

C. LIBERALISATION OF TRADE FROM A WTO PERSPECTIVE

1. A changing policy

(a) *The end of preferential and non-reciprocal trade arrangements*

The Lomé Convention's non-reciprocal trade preferences were strongly criticised for failure to improve the ACP countries' economic situation. On the European Union market the ACP share fell from 6.7% in 1976 to 3.4% in 1993, despite theoretical free access. In view of this, the Cotonou Agreement scheduled the end of this system in 2008 and its replacement by commercial free trade, which will make it possible to comply with the WTO's rules on non-discrimination and reciprocity.

This is the reason behind the removal of Stabex (which is intended to stabilise export revenue from agricultural products) and Sysmin (for minerals and mineral products). However, although reform in the system for release of funds was necessary, it is unfortunate that they were simply abolished. The instability for exports of tropical products and imports of food products remains, further increasing the structural imbalance in ACP-EU trade. Thought might have been given to a price stabilisation fund (rather than an income stabilisation fund), which could have been managed by the inter-professional associations, and a system to cover imports for countries that are net food importers.

(b) *Free trade issues*

The WTO requires markets to be opened under rules of reciprocity. The ACP countries will therefore be obliged to open their market to EU products, in exchange for which the EU will grant them financial aid to compensate for the cost of opening. Even the quota systems, with guaranteed prices under the Lomé protocols, for primary products such as bananas, sugar, beef and rum are eventually due to be dismantled.

The ACP countries will be treated differently, depending on their level of development. The least developed countries would in effect have preferential treatment (confirmed under the Everything But Arms initiative), which would give them the means to conserve their gains under Lomé. The ACP countries that do not come into this category have the choice between directly rejoining the Generalised System of Preferences, which is less advantageous than the Lomé Convention as it implies systematic reciprocity, or negotiating Regional Economic Partnership Agreements, which provide for gradual and reciprocal opening of markets between partners. However, the agreement leaves a large margin of manoeuvre for future trade negotiations. In 2002 the ACP countries and the Commission (Trade DG) will begin negotiations on setting up Regional Economic Partnership Agreements (REPA's). REPA's are based on WTO requirements, by regionalising trade relations and ending the discrimination from which the ACP countries benefited but they can be adapted according to level of development and the regions' requirements. The aim is to facilitate eventual transition to the WTO's general system.

The framework for the least developed countries is different. The Everything But Arms initiative adopted by the Council in April 2001 reveals attempts to weaken the Cotonou Agreement, especially as the initiative is likely to be more symbolic than helpful in encouraging growth in the least developed countries – especially among the ACP countries – as the effects will be minimal. Leaving aside the appearance of generosity, the objective of radically transforming the inequitable North-South trade relations is lacking. On the contrary, by stimulating competition, it is likely to prove detrimental to the ACP Group's cohesion and thus to reduce their weight in economic negotiations, including international negotiations.

Thus Cotonou advocates liberalisation as a framework for development and an instrument for

combating poverty, and in this respect adopts the international organisations' assumptions. The defenders of this approach claim that the REPAs will lead to an increase in trade, which in due course will have a positive impact on the ACP countries' growth and will thus attract a flow of investment, creating a virtuous circle of economic growth. This approach, which envisages development only through market laws, is far from enjoying unanimous support: during the negotiations, the ACP countries challenged this logic and stressed that the current WTO rules did not take sufficient account of the current level of development and the ACP states' future needs. In fact, experience shows that, as a whole, the ACP countries have not derived much benefit from the liberalisation of trade. Sub-Saharan Africa – and other southern countries – have generally been marginalised. The pressure for wider opening up of their markets to competition is certainly not an asset for these countries.

Nevertheless it is possible to find an alternative trade agreement, negotiable from 2002. For example, the REPAs offer the possibility of incorporating in negotiations vital factors for sustainable development, such as the environment, to encourage economic optimisation of the countries' human and natural resources. The success of these trade agreements also depends on fundamental revision of the CAP and other Community policies that are incompatible with development policy.

(c) *Regionalisation issues*

For the implementation of the REPAs, the Cotonou Agreement divides the ACP Group into several regions, which will be required to sign autonomous trade agreements with the European Union. The EU suggests dividing the ACP into six regions: West Africa, Central Africa, East Africa and the Horn of Africa, the Southern African Development Community (SADC), the Caribbean Community (Caricom), and the Pacific Region. This breakdown does not necessarily correspond to existing regional organisations in the ACP countries. The European Union's unilateral and arbitrary selection of these areas for the REPAs is likely to undermine ACP regional cooperation strategies and weaken their control over the current integration process. Regional economic cooperation processes will succeed only if they are worked out by the countries themselves and not imposed from outside. Consequently precipitate action should be avoided and the ACP partners should be allowed to define their geographic configuration for trade negotiations with the European Union to suit themselves.

The regionalisation proposed by the EU and the division between the least developed countries and the other countries are likely in the long term to lead to fragmentation of the ACP Group and threaten the solidarity that was its strength. The ACP Group will exist only as a means to the political agreement constituted by the framework agreement, which is likely to mean a further increase in European negotiating power and allow the EU to exercise very wide control over the ACP countries' policies and decisions.

2. *Liberalisation in relation to services and intellectual property*

(a) *The General Agreement on Trade in Services and Annexes (GATS)*

Trade in services is specifically included in the Cotonou Agreement (Article 41); this new provision represents a real danger for the ACP countries. In fact the General Agreement on Trade in Services, which has applied to all WTO members since 1995, lays down liberalisation of trade in all financial, banking and insurance services, also transport, telecommunications, water distribution, environmental protection, and even free public services such as education, health care, etc. The concept of public services does not even exist in the GATS text. GATS is thus

aimed at the commercialisation of services, as though they were commodities, and removes state prerogatives in this respect. However, states have an obligation to defend their fellow citizens through their public services. Democracy is at stake.

The accession of developing countries, including ACP countries, to GATS can only strengthen the hold of the Western multinationals on the private sector in these countries and now on the public sector. The effects of liberalisation are obvious: a lowering of quality and a rise in prices. How can such measures improve the living conditions of the poor? Because of the undemocratic way in which the WTO is run, by promoting the ACP countries' access to world trade in goods and services, the European Union is only strengthening the domination of northern countries and undertakings over those in the south and is compromising the ACP countries' development to lasting effect.

(b) *Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)*

Article 46 of the new agreement sets out the importance of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), which is annexed to the WTO Agreement. This means that the parties must apply protection measures to their patents (for 20 years). The problem is that this provision favours the industrialised countries, which have the means to have their inventions patented, to the detriment of the developing countries.

In agriculture, this enables the industrialised countries to patent their inventions and protect their patents over species of fauna and flora that they have in fact discovered in the developing countries. This TRIPS provision thus gives the industrialised countries a monopoly of ownership of the ACP countries' genetic resources.

This is even more serious in relation to health and treatment. The developing countries that cannot have access to the patents registered by the industrialised countries are obliged to buy medicines at exorbitant prices. Usually they do not have the means. Thus access to health care is at stake. The example of the fight against AIDS, illustrated by the case brought by the pharmaceutical industry against South Africa, confirms the cynicism and injustice of such practices.

It was to end bio-piracy that the Organisation of African Unity adopted a model law on community rights and on the control of access to biological resources. This innovative law, based on the Convention on Biological Diversity (CBD) adopted in 1992 in Rio, underlines states' sovereign right over their biological and natural resources and protection of indigenous knowledge and practices. However, this law is not part of the Cotonou Agreement.

III. THE QUESTION OF IMPLEMENTATION

Whether seen as innovative or a subject of criticism, to a large extent the Cotonou Agreement represents a voyage into the unknown. Everything remains to be done – in the future trade negotiations and in the implementation of often vague provisions that are largely open to interpretation. Its scope and real contribution to the ACP countries' sustainable development will thus greatly depend on how it is implemented. The part of the text on political dialogue, for example, remains very general and, in the absence of very precise conditions, may be applied in very varied ways. A similar assessment may be made for concepts of combating poverty, good governance or gender issues. The assessment and performance criteria remain to be defined, the practical application procedures need to be clarified qualitatively and quantitatively. Subsequent

negotiations will determine progress and all actors have a major role to play in ensuring its success.

A. STRENGTHENING THE JOINT INSTITUTIONS

The ACP-EU institutions are profoundly original. They cover a large number of countries – now 92 – in the framework of an inter-regional agreement. They administer the three basic aspects of the agreement: political, economic and commercial. The Cotonou Agreement does not change institutional structures but it does change their working procedures and increases their powers, to take account of innovation.

(a) *The ACP-EU Council*

It is responsible for implementation of the agreement, even if in reality the Commission deals with most of this. The Council's negotiations and debates often remain formal and the European level of ministerial participation is very low, which limits the possibilities for genuine political decision-making. Furthermore, the ACP-EU Council of Ministers is still an opaque institution. The line being taken in the debate on ACP-EU cooperation implies a need for greater transparency, and this would doubtless have the effect of removing a number of impediments.

Under the Cotonou Agreement, the Council of Ministers is responsible for conducting political dialogue. This means implementation of the political dimension, which, even though it was mentioned in Lomé IVa, has never been put into effect. This requires the European governments to give more attention to the Council and proof of new commitment. If the European governments are not willing to debate all political questions, including world and Community issues that have an impact on ACP-EU cooperation, the commitments initiated by Cotonou will not be fulfilled by meaningful results.

(b) *The Joint Parliamentary Assembly*

The Joint Assembly has been strengthened by the Cotonou Agreement. It is now explicitly parliamentary (Joint Parliamentary Assembly, JPA) and has taken the lead in implementing democratic processes, which is a strong and positive sign towards democracy and active public participation in decision-making. The Joint Parliamentary Assembly may in future hold regional meetings. This very important new provision has to be seen in the context of support for regional integration in the ACP countries. The regional configuration and the organisation of meetings must be defined by the regions concerned.

Nevertheless, the first challenge for the JPA will be to make itself effectively heard and recognised as a parliamentary assembly. Its parity is often harmed by imbalances in its workings. The parties are not equal: the European Parliament makes use of its own structures and powers. The organisation of its political groups gives it a considerable advantage which is expanded in the context of continuous work. On the other side, the ACP members meet for only a few days a year and geographical distance represents a considerable barrier to common working. Above all, the principle of one vote per country in the ACP Group, as opposed to one vote per person on the European side, is not fair. Participation of one representative per country prevents access by and expression of the views of opposition representatives and thus eclipses any political pluralism in these countries. It is therefore not surprising that the work of the former Joint Assembly was often predominantly unilateral.

It is of course the JPA's responsibility to tackle these questions and consider ways of remedying

the imbalances. But it is also the European Parliament's responsibility to draw attention to this problem, especially as the new parliamentary dimension could serve to strengthen these imbalances. The Assembly could be organised in political groups, like the European Parliament, which would allow for better quality and more in-depth parliamentary work.

The JPA's role is to 'promote democratic processes'. But, apart from its power of opinion, it has no adequate instruments to exercise this responsibility. Consequently these reforms will only have an impact if the JPA's powers are strengthened and if it can exercise budgetary and political control over the financing of cooperation, negotiations and the ratification of new treaties.

B. THE COMMUNITY FRAMEWORK

The Cotonou Agreement's entry into force coincides with reforms of European development and aid management policies. The application of ACP-EU cooperation will partly depend on these changes and thus is difficult to anticipate in practice.

1. Reform of external aid management

Far from drawing the consequences of the debate on the Green Paper, the Commission has undertaken internal reform of the management of external aid, aimed at better administration and rationalisation of aid. The debate on the Green Paper has shown the crying need for simplification of procedures, which the European Parliament has also demanded. However, the current reform does not seem to meet expectations.

This reform comprises a new allocation of powers between directorates-general (DGs) at the Commission. The Development DG (which dealt with all aspects of the former Lomé Convention) is now competent only to devise strategies or main lines of development, including the definition of National Indicative Programmes by ACP countries. The Foreign Affairs DG implements the political dimension (good governance, conflict prevention, human rights, etc.). The Trade DG manages the trade side of the agreement (including the clauses on services and intellectual property) and will lead the negotiations on the REPAs. The new aid management office (Europaid) is responsible for negotiations and the carrying out and monitoring of projects, but not only in the ACP countries.

This new organisation seems more complex and not propitious to more effective interaction or greater consistency within the Commission, especially for implementation of the Cotonou Agreement. It may be asked how the Trade DG intends to promote the development of ACP exports in conjunction with its main mandate, which is to defend the EU's trade interests. Procedures are also likely to be more complicated for the ACP countries, which will have to approach several departments, depending on the area of the Agreement concerned. The trend therefore is to sideline the Development DG, which has gradually been deprived of its prerogatives.

Finally, reform has concentrated on internal and political procedures whereas implementation of the Cotonou Agreement seems to require a strengthening of the partnership. The process undertaken by the Commission is not taking place on an equal footing and is thus impeding the real effectiveness of the Cotonou Agreement.

2. The EU's new development policy

At the Council's request, the Commission drew up a proposal for a communication on redefinition of the EU's development policy. This is based on a combination of two main criteria: aid should be concentrated on a limited number of sectors, to which the Community would contribute value added, and aid must help in the eradication of poverty. The sectors identified are trade and development, regional integration and cooperation, support for macro-economic policies that have a direct link with poverty-reduction strategies, transport, food safety and sustainable rural development strategies, strengthening of institutional capacities, good governance and the rule of law.

It is regrettable that the ACP states were not associated with this decision, which concerns them directly. It is legitimate to ask what margin of manoeuvre is left to the beneficiaries of aid to define their priorities as sovereign states, if these are to be incorporated in the new Community development policy.

3. The European Parliament's role

Before the Agreement can enter into force, bringing with it EUR 12 000 000 000 of EDF aid and EUR 1 700 000 000 in EIB loans over five years, it has to be ratified by the European Community and the 92 national parliaments of the states party to the agreement. The agreement, and the amount of EDF aid in particular, will be revised every five years, after negotiations between the ACP and EU states. Trade negotiations will be conducted by the Commission (Trade DG). The European Parliament, however, will no longer be consulted. It will only be informed of future developments and will give discharge for the EDF without being able to take part in the decisions or even scrutiny of its use.

The European Development Fund, whose income and expenditure are executed outside the general budget, is the main financial instrument for implementation of the national or regional indicative programmes. So far the European Parliament's call for budgetisation of the EDF, to allow for parliamentary scrutiny, has not received a favourable reply from the Council. Transparent and democratic management of the EDF is, however, a condition for the success of the Cotonou Agreement. In the spirit of partnership, it is also important that the Joint Parliamentary Assembly should be associated with assessment of EDF expenditure and the implementation process.

IV. CONCLUSION: A FAIR PARTNERSHIP FOR SUSTAINABLE DEVELOPMENT

In conclusion, the rapporteur calls on the European Parliament to give close attention to the implementation of the Cotonou Agreement and to express its views where necessary to ensure fair, supportive cooperation that respects the various partners' interests and choices. Consequently, the rapporteur:

On the ACP-EU partnership

- believes that the ACP-EU partnership must promote sustainable development based on the ACP countries' democratic political choices, which requires mobilisation of human,

intellectual and natural resources, as well as optimum use of local systems of knowledge by the countries themselves; the EU's cooperation and development policy must be directed towards supporting ACP internal efforts to reinforce their own development strategies and their self-reliance;

- considers that the fight against poverty – a Cotonou Agreement objective – requires a consistent EU policy, which must tackle the structural causes of poverty in the ACP countries: an end to export subsidies that disrupt local markets, cancellation of debt, and replacement of the current commercial free trade system by fair rules;
- considers that it is important to remedy inherent inequalities in relations between the ACP and EU countries, especially the ACP countries' considerable difficulties in their negotiations with the EU; there is a need to develop the ACP countries' expertise, especially with a view to trade negotiations between the two partners;
- considers that the strengthening of what is now the Joint Parliamentary Assembly is an innovation of prime importance and that the members ought to be associated with international decisions; consequently, adequate solutions have to be found to remedy the imbalances in its operation and to enable members to carry out their responsibilities effectively, in accordance with the Cotonou Agreement, by giving them the appropriate financial and human resources;

On the political dimension

- considers that the opening of cooperation to civil society is both an important step towards participatory development and a challenge that must be taken up by the ACP countries in partnership with civil society;
- considers that the role of the state must be democratised and rehabilitated and is convinced that the sustainable development of the ACP countries must come about through strengthening of public services that meet local people's vital needs;
- considers that to ensure the credibility of the new partnership and political dialogue, the development policies of the EU, the Member States and the ACP countries must be a subject of democratic debate in the joint institutions;

On the trade aspect

- points out that it is the ACP public authorities' responsibility to adopt appropriate rules to protect and develop their own industries and to open their markets selectively in accordance with their economic situation, without, however, marginalising the local private sector; considers in this respect that a socially and ecologically responsible private and associative sector can contribute to sustainable development;
- fears that regional free-trade agreements with the ACP countries will undermine the current economic groups and their integration strategy; considers that it is the responsibility of the ACP regions to define and devise regional integration as a joint project with its own economic, political, social, environmental and trade objectives;

- considers that future trade negotiations between the ACP and EU countries must be based on assessment of the current liberalisation of trade and its impact on the ACP countries' economies; stresses in this connection that a new cycle of negotiations on world trade must first assess earlier commitments in the GATT and WTO framework, including special and differentiated treatment;

In the area of cooperation

- recommends that the EU should reform its common agricultural policy and its fisheries policy, which both do great harm to local production and markets and are contrary to development cooperation measures;
- stresses the importance of patentability (of medicines, flora and fauna, etc.), which present a real threat to the ACP countries' capability of caring for their people and preserving food-producing crops and local traditions when faced with multinational interests; considers that the Cotonou Agreement must support application of the law adopted by the OAU, which protects the rights of local communities and lays down rules of access to biological resources;
- stresses the importance of environmental protection, which is a guarantee for people's survival in the short term and for sustainable development in the long term.

This report takes a critical approach because there are grounds for condemning the gaps in the Cotonou Agreement and the shifts, which have already been noted, in its application. Most of all, it is regrettable that no political assessment of the Lomé Convention and, more generally, no objective analysis of North-South relations were carried out before the negotiations on renewal of ACP-EU cooperation.

Nevertheless this report recommends that the European Parliament should give its assent to the ratification of the Cotonou Agreement. In effect, the existence of a new ACP-EU cooperation agreement is a victory in itself. Furthermore, it contains innovative aspects that will have to be interpreted and used constructively. As the European Parliament has no powers to amend this text, it is essential to work to get the most out of it, so that aid can make a real contribution to the well-being of the people of the ACP countries, as regards their food, health, educational requirements, etc.

30 April 2001

OPINION OF THE COMMITTEE ON FOREIGN AFFAIRS, HUMAN RIGHTS, COMMON SECURITY AND DEFENCE POLICY

for the Committee on Development and Cooperation

on the proposal for a Council Decision concerning the signing, on behalf of the European Community, of the Partnership Agreement between the African Caribbean and Pacific States on the one part, and the European Community and its Member States, on the other part (2117/2000 – COM(2000) 324 - C5-0417/2000 – 2000/0124 (AVC))

Draftsman: Lone Dybkjær

PROCEDURE

The Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy appointed Lone Dybkjær draftsman at its meeting of 12 July 2000.

It considered the draft opinion at its meeting(s) of 27 February and 10 April 2001.

At the latter it adopted the following conclusions unanimously.

The following were present for the vote: William Francis Newton Dunn, acting chairman; Catherine Lalumière, vice-chairman; Alexandros Alavanos (for Andre Brie), Ole Andreasen (for Pere Esteve), Danielle Auroi (for Daniel Marc Cohn-Bendit), Alexandros Baltas, Bastiaan Belder, Elmar Brok, Gunilla Carlsson, John Walls Cushnahan, Joseph Daul (for José Ignacio Salafranca Sánchez-Neyra), Rosa M. Díez González, Andrew Nicholas Duff (for Bertel Haarder), Olivier Dupuis (for Emma Bonino), Giovanni Claudio Fava (for Jannis Sakellariou), Francesco Fiori (for José Pacheco Pereira pursuant to Rule 153(2)), Monica Frassoni (for Matti Wuori), Michael Gahler, Per Gahrton, Gerardo Galeote Quecedo, Jas Gawronski, Vitaliano Gemelli (for Silvio Berlusconi), Alfred Gomolka, Vasco Graça Moura (for Franco Marini), Klaus Hänsch, Magdalene Hoff, Giorgos Katiforis (for Ioannis Souladakís), Efstratios Korakas, Alain Lamassoure, Pedro Marset Campos, José María Mendiluce Pereiro (for Emilio Menéndez del Valle), Philippe Morillon, Pasqualina Napoletano, Raimon Obiols i Germà, Arie M. Oostlander, Reino Paasilinna (for Hannes Swoboda), Hans-Gert Poettering, Jacques F. Poos, Jacques Santer, Jacques Santkin, Jürgen Schröder, Ilkka Suominen (for The Lord Bethell), Gary Titley, Johan Van Hecke, Geoffrey Van Orden, Christos Zacharakis.

SHORT JUSTIFICATION

The draftsman welcomes the new agreement and is of the opinion that it contains many positive elements which, if fully and properly implemented, could improve the results of ACP-EU cooperation.

Used constructively the new ACP-EU Partnership (the Cotonou Agreement) can become a real framework for poverty reduction and, ultimately, for poverty eradication. But we need real partnership cooperation to be able to cope with traditional as well as new problems, such as violent conflicts, refugees, corruption, human rights abuses, ethnic intolerance, HIV/AIDS, malaria, tuberculosis, debt, illiteracy, the 'digital divide', etc. The focal point must be to create a framework for capacity-building in the ACP States.

While ensuring the complementarity of national development policies and Commission policy is a *sine qua non* for strengthening European action in ACP countries, it should not be forgotten that some EU Member States have a very strong, positive tradition as regards development policy, and their efforts should not be jeopardised by the need to coordinate the various initiatives coming from the EU and individual Member States.

It is also very important that the call for coherence between Member States and the Commission in the field of development policy is extended to the CFSP. (For example, suspending application of the Lomé Convention to Sudan or Equatorial Guinea, but at the same time leaving Member States free to continue their bilateral cooperation, is certainly not coherent European action).

More trade – and aid

Funding is not enough. We urgently need to develop a new approach to trade regimes. The current strategy of systematically replacing the existing system of trade preferences with a series of new economic partnerships which are based on a progressive and reciprocal removal of trade barriers is one step in the right direction and should be welcomed. These agreements will be defined as part of a broader strategy to improve the ACP States' ability to attract private sector investment. However, a strategy of increasing trade needs to be backed up by trade facilitation for ACP countries to make sure that they can participate in the world market. It is therefore vital that the Commission engages in a study that focuses on the supply-side problems faced by ACP countries.

Likewise, the importance of articles 29 and 30 on regional cooperation must be stressed, both in terms of creating a regional market to "fertilise" wealth creation within the small and least developed countries and in terms of having an entity for dealing with the supply-side problems of ACP countries. The case of European regional integration has shown how important regional development is, and could therefore be used as a role-model.

However, the question is whether this strategy is radical enough. At present, the EU and the Member States are funding improvements to production conditions in ACP countries while, at the same time, they are continuing to create trade barriers which hamper ACP countries' direct access to EU markets. The Common Agricultural Policy (CAP) heavily subsidises EU products and penalises ACP efforts to become competitive. As such, the gradual introduction

of free-trade areas should become the cornerstone of a genuine attempt to regenerate ACP economies.

People to people cooperation and fair trade

If the Cotonou Agreement is going to be a success, 'people to people' cooperation and civil society involvement needs to be given the greatest possible focus. Joint development projects should be run by local municipalities, trade unions, professional associations, co-operatives, consumer associations, schools, universities, student groups, religious groups, and others. The European Commission should facilitate this process. 'Grand scheme' projects do not always fit the bill: micro-projects, such as micro-credit units, have proved to be extremely cost-effective and have helped to empower the very poorest. The European fair trade network provides a successful example of people to people cooperation and could well be extended to other sectors. However, the Commission is not playing a significant or strategic role in the promotion of fair trade, nor does it provide an official European fair trade label which would harmonise different criteria and help avoid abuses.

Civil society

The backbone of any viable EU-ACP treaty has to be support for the promotion of civil society in ACP countries. A strong civil society expresses itself by demanding radical transformation of political and social structures. The fight against poverty can only be effective if it stimulates growth through competitiveness and private sector development and this also needs to allow the popular urban economy, the so-called informal sector, to play its part.

A new frontier for human development: good governance and other goals

The Cotonou Agreement should also be welcomed for the fact that emphasis is now being placed on human rights as a fundamental criterion in the North/South dialogue. A few years ago many ACP countries were reluctant to address the issue. Today clauses on human rights are included in international agreements (such as EU cooperation agreements with third countries) as essential elements for the implementation of the agreement. And efforts are now underway to expand the concept of fundamental rights: good governance and the fight against corruption as key elements for securing the rights of both ACP and European citizens and introducing higher standards into public life.

In addition, the concept of aid should now be updated to provide a far more comprehensive approach. ACP societies are demonstrating a need for a different form of cooperation, one which goes beyond traditional assistance and is moving towards the investment, agriculture, health and education sectors. North/South cooperation now has many new 'borders'. One such case is education policy as a whole, which has to be upgraded and where an important focus should be higher education. The permanent and lasting priority of the fight against illiteracy should not prevent ACP countries from having adequate university facilities and exchange and internship programmes. This is a pre-requisite for wealth creation and for a real alternative to the 'brain-drain'.

Article 25 is a key article in that it stresses the importance of cooperation in the development and improvement of basic social infrastructure and services (both in terms of quality and

access). However, the issue of basic health care is not as fully addressed as it might be in the agreement - while nutrition, reproductive health and HIV/AIDS are specifically referred to and are, without question, key areas, why is there no reference to, for example, promoting the fight against malaria and contagious diseases such as tuberculosis, which are also a major scourge?

The strengthened focus of the new agreement on improving, ensuring and broadening the equal participation of men and women in all spheres of political, economic, social and cultural life (Article 31) is to be welcomed, as is the encouragement of "specific positive measures in favour of women such as ... taking specific account of women in emergency aid and rehabilitation operations". However, given the tragic proliferation of civil wars and other conflicts in ACP countries, it is important to stress that women's full participation in education, decision-making, conflict prevention and resolution and all peace initiatives is vital. Unfortunately, the agreement fails to acknowledge this.

Concluding remarks

In conclusion it should be recalled that the term "ACP" is often all too easily used as a label to classify all countries in the South. Not all ACP countries are poor, some are no longer "developing" countries. In ten years' time, certain developing countries will no longer be considered as such but others may be added to the list. Not all the poverty on this planet is concentrated in the ACP. A recent World Bank estimate suggests that 35% of the world's population living in misery today is found on the Indian sub-continent. Despite the fact that LDCs (least developed countries) today benefit from certain country-specific agreements, further consideration should be given to the idea of examining the specific situation of every single ACP country. We should in fact ensure that "ACP" is a constantly evolving concept.

CONCLUSIONS

The Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy calls on the Committee on Development and Cooperation, as the committee responsible, to incorporate the following points in its report:

The European Parliament

1. Welcomes the new agreement as a positive and necessary reform of the ACP-EU partnership, building on the acquis of 25 years' experience, but containing new elements which, it is to be hoped, will enable the partnership to adapt to global developments and to maximise the viability and effectiveness of cooperation;
2. Welcomes the fact that the new ACP-EU partnership agreement seeks to create a more favourable context for poverty reduction and sustainable development, and to reverse the processes of social, economic and technological marginalisation;
3. Welcomes in particular the fact that the agreement is based on respect for human rights, democratic principles, good governance and the rule of law;

4. Welcomes the fact that the new agreement provides a useful legal base for ensuring the participation of civil society, the private sector and local government, in both the formulation and implementation of ACP-EU cooperation;
5. Stresses the fact that sustainable peace is a prerequisite for development;
6. Stresses the fact that in sub-Saharan Africa, and in most of the Caribbean and Pacific islands which belong to the ACP group, almost half the inhabitants live in conditions of total poverty (and the majority of these are women), and are forced to survive on less than \$1 a day; acknowledges the fact that lack of access to markets, natural disasters - as well as considerable political instability - all contribute to aggravating the economic situation;
7. Stresses the need for equality between women and men in the ACP countries as a prerequisite for a socially balanced development, and that it is imperative for women to be full participants in all areas of society (eg. in education, decision-making, conflict prevention);
8. Underlines the need for a political dialogue and real partnership between the Community and each of the partner states and regions;
9. Underlines the fact that without regional cooperation the process of creating market advantages for the ACP countries will be difficult; therefore calls on the ACP countries to embark on a process whereby they work towards much greater regional cooperation, and on the EU and its Member States to support this development; and recalls the fact that trading arrangements should provide support for regional cooperation;
10. Also stresses the great political importance of reinforced regional cooperation within the group of the ACP countries; such regional cooperation will benefit the stability of these regions;
11. Underlines the fact that diseases like HIV/AIDS, malaria, and tuberculosis are having a catastrophic effect on the social structure of a number of countries and, thereby, on their potential development; therefore calls on the Council and Commission to step up assistance to develop the human and institutional capacity to support and develop research into health; also calls upon the Commission to work towards a review of the TRIPS agreement so that it is no longer an obstacle to easy access to basic medicines in the ACP countries;
12. Calls on the Commission and the Member States to take full advantage of the whole range of possibilities and instruments contained in the Cotonou Agreement; calls for particular attention to be given to the political dimension of the partnership, to conflict prevention and to education and public health, since improved ACP-EU cooperation involves more than a purely trading arrangement;
13. Considers the fact that micro-credit remains an important means of empowerment, but that the time has come to create the foundation for greater economic growth at grass-roots level;

14. Calls on the Commission, the EU Member States and the ACP countries to develop together a broader strategy to improve the ACP States' ability to attract private sector investment; suggests in this connection that the Commission and the EU Member States investigate the specific instrument of giving tax incentives to companies which invest in ACP countries;
15. Calls on the Commission and Council to ensure that the special consultation procedures and appropriate sanctions are applied consistently and firmly on the basis of transparent criteria in the event of human rights violations and serious corruption; calls on the Council and Commission, throughout such procedures, to act with maximum transparency vis-à-vis the European Parliament; also calls for the European Parliament to be given a greater role in initiating such procedures;
16. Calls on the Commission as well as on the EU Member States to embark on a strategy that gradually but continuously ensures the access of ACP countries to European and world markets; in this connection, welcomes the 'Everything but arms' initiative as a logical step towards such a strategy;
17. Calls on the Commission and the Member States to refrain from any form of policy which might lead to the distortion of the local market in the ACP countries;
18. Calls on the Commission as well as on the EU Member States to formulate a strategy that incorporates civil society in the Cotonou Agreement; calls on the Commission to detail as soon as possible the concrete arrangements by which this partnership with civil society will operate; acknowledges the fact that no agreement can be successful without local ownership;
19. Calls on the European Union and its ACP partners to launch a major new strategy for ICT (Information and Communication Technologies), to be developed in close cooperation with the EU and ACP private sectors and the NGO community, with a view to facilitating digital technology capacity in the ACP, to enhance its economic and social development;
20. Calls on the Commission to ensure that it has an appropriate number of staff in order to fulfil the expectations and implementation of the agreement;
21. Asks the Committee on Development and Cooperation to recommend that Parliament approve the Cotonou Agreement, with the proviso that all the above-mentioned points are essential for the successful implementation of the Partnership Agreement.

5 March 2001

OPINION OF THE COMMITTEE ON INDUSTRY, EXTERNAL TRADE, RESEARCH AND ENERGY

for the Committee on Development and Cooperation

on the proposal for a Council Decision concerning the conclusion of the Partnership Agreement between the African Caribbean and Pacific States on the one part, and the European Community and its Member States, on the other part
(2217/2000 – COM(2000) 324 – C5-0417/2000 – 2000/0124(AVC))

Draftsman: Harlem Désir

PROCEDURE

The Committee on Industry, External Trade, Research and Energy appointed Harlem Désir draftsman at its meeting of 19 September 2000.

It considered the draft opinion at its meetings of 24 January and 26 and 27 February 2001.

At the last meeting it adopted the following conclusions unanimously.

The following were present for the vote: Carlos Westendorp y Cabeza, chairman; Renato Brunetta, vice-chairman; Harlem Désir, draftsman; Gordon J. Adam (for Glyn Ford), Guido Bodrato, David Robert Bowe (for François Zimeray), Massimo Carraro, Giles Bryan Chichester, Nicholas Clegg, Gérard M.J. Deprez (for Christos Folias pursuant to Rule 153(2)), Concepció Ferrer, Lisbeth Grönfeldt Bergman (for Anders Wijkman), Cristina Gutiérrez Cortines (for Christian Foldberg Røvsing), Norbert Glante, Malcolm Harbour (for W.G. van Velzen), Roger Helmer, Werner Langen, Rolf Linkohr, Caroline Lucas, Eryl Margaret McNally, Erika Mann, Marjo Matikainen-Kallström, Angelika Niebler, Giuseppe Nisticò (for Jaime Valdivielso de Cué), Reino Paasilinna, Yves Piétrasanta, Samuli Pohjamo (for Astrid Thors), John Purvis, Imelda Mary Read, Paul Rübig, Ilka Schröder, Konrad K. Schwaiger, Elena Valenciano Martínez-Orozco and Alejo Vidal-Quadras Roca.

SHORT JUSTIFICATION

The Partnership Agreement signed on 23 June 2000 between the ACP States, the Community and its Member States, known as the Cotonou agreement, follows on from the fourth Lomé Convention, which had expired on 29 February 2000 (and had been extended).

Extending and transforming EU/ACP cooperation

In extending and transforming its cooperation with the ACP States, the European Union is reaffirming a choice which is not solely a result of former historical relationships but is also in its own interest. The European Union cannot, however, be wholly satisfied with the results of the Lomé Convention. It did not achieve the task set for it, of ensuring substantial economic development in the ACP States. But the Lomé agreements by themselves could never have been enough to tackle this issue.

Cooperation policy faces a triple challenge:

- the lack of coherence in international policies towards developing countries, particularly as regards the international financial institutions' policy (the World Bank and the IMF), the Member States' cooperation policies and those of the United Nations agencies
- the consequences of increasing liberalisation in international trade, since this growth has not benefited poor countries
- the loss of legitimacy in public development aid, which has been tainted by corruption scandals and the misuse of funds

New foundations for the partnership

The new agreement aims to forge a strong connection between the following three dimensions:

- a comprehensive political dialogue, covering a wide range of subjects such as international immigration, conflict prevention, human rights and the environment
- economic and trade cooperation
- development aid

The reduction and eradication of poverty are the new partnership's central objectives.

The agreement seeks to provide a coherent framework for cooperation by ensuring that its various economic, social, cultural, environmental and institutional components are mutually consistent.

It emphasises the importance of social and human development and states that 'special attention shall be paid to ensuring adequate levels of public spending in the social sectors.'

Consistent strategic choices

With regard to the economic development strategies, which are our committee's direct concern, emphasis is placed on:

- (a) the creation of a favourable environment for private investment
- (b) macroeconomic and structural reforms
- (c) sectoral development

Both for these issues and for those relevant to trade, the agreement mingles complementary

approaches which are at times contradictory, and are a reflection of the differing viewpoints of the parties to the agreement instead of being truly consistent.

The interpretation of good governance

In Article 9, 'good governance' is defined as 'the transparent and accountable management of human, natural, economic and financial resources for the purposes of equitable and sustainable development'. The developing countries subscribe to this balanced definition, which flows from the principles established within the UNDP. This is a vital lynchpin of the agreement. Other passages in it, however, imply a definition which reduces sound management or good governance to structural adjustment policies.

Regional integration/new trade agreements: which strategy?

The ACP States have stressed that the option of REPAs (Regional Economic Partnership Agreements) places a severe restriction on what regional integration can cover and will lead to the loss of tax revenue.

In general, the agreement's text fluctuates between two different trade strategy approaches: regional integration, on the one hand, and, on the other, direct, accelerated integration into multilateral free trade and the general rules of the WTO. In the long term, these two approaches are not contradictory. Experience in Europe has shown that regional integration can be the best route towards successful integration into the world economy. However, all the lessons of this past experience should be borne in mind. Within Europe, public, sectoral and regional aid has helped backward sectors to catch up, and protective measures have been maintained over lengthy periods, at least within certain sectors. For this reason, the strategy which the European Union is putting forward to the ACP must be clarified. The model backed by the WTO for the ACP States is not regional integration but the application of the most favoured nation rule after transitional periods which are to be as short as possible. Regional integration without any specific trade policy is devoid of meaning.

The simplistic use of the argument of compatibility with the WTO rules is very surprising. After the failure of the Seattle summit, which highlighted the need for trade arrangements to take better account of the circumstances of developing countries, if there are still obstacles with the WTO concerning the search for special and individual treatment then the most appropriate course of action would be to begin by defining the trade rules best suited to the balanced development of the ACP States; the 15 EU countries and the 77 ACP countries, together, should negotiate within the WTO the necessary derogations or adaptations.

TRIPS (Agreement on Trade-Related Aspects of Intellectual Property Rights)

The introduction of a multilateral framework protecting intellectual property has so far had very little effect in encouraging large-scale technology transfers to developing countries. On the contrary, some of its provisions could cause fresh difficulties.

Thus, Article 46(5) of the partnership agreement, like TRIPS, to which it refers, places areas as diverse as industrial property and patents on plant varieties on the same level. Patenting life raises serious issues. It would lead to a new form of pillage of the natural wealth of the countries of the South.

In addition, the European Union must monitor the application of the provisions of TRIPS on parallel imports and compulsory licences to enable medicines designated by the World Health

Organisation as essential to be provided at low prices.

Financial cooperation

There was agreement between the European Union and the ACP States on the need to reform STABEX and SYSMIN, but not on their abolition. This raises concerns on the part of the ACP States. John Horne, the President-in-Office of the ACP Council of Ministers, pointed this out at the ACP/EU Joint Assembly, when he deplored the abolition of these instruments.

N.B. An annex with an introduction to and a more detailed analysis of the ACP-EU Partnership Agreement is available in French from the rapporteur.

CONCLUSIONS

The Committee on Industry, External Trade, Research and Energy, delivering its opinion to the Committee on Development and Cooperation concerning the ratification of the Partnership Agreement between the European Community and the ACP countries:

1. Underlines the importance of poverty reduction and, in the long term, poverty eradication, sustainable development and the gradual integration of the ACP States into the world economy, as the central aim of ACP-EU cooperation;
2. Insists on the need, in view of this objective, for greater consistency between the policies supported by the European Union and the Member States within international and multilateral institutions; stresses how important it is for the European Union to back the efforts of the ACP States to become members of these institutions in their own right;
3. Welcomes the wish to establish a comprehensive political dialogue between the Community and the ACP States, based on equality between the partners and dealing both with development cooperation in general and economic development, and topics such as conflict prevention, the promotion of a stable and democratic political environment, the protection of the environment, international immigration etc.; stresses that it is essential to promote educational and professional training policies in the ACP countries, since this is a factor which is essential for development;
4. Insists on the fact that cooperation must aim at sustainable development focused on individuals; supports the provisions of Article 96 concerning failures to respect human rights and democratic principles;
5. Stresses the importance for the success of cooperation policy of the principle of ownership of this policy by the ACP States, which as sovereign states must be able to decide on their own economic development strategies; welcomes the importance placed on good governance, defined as the transparent and accountable management of human, natural, economic and financial resources for the purposes of equitable and sustainable development; supports the provisions of Article 97 concerning serious cases of corruption;
6. Stresses the importance of the regional integration strategy, and genuine consideration of

levels of development and the socio-economic effects of trade measures on the ACP States; insists that the trade arrangements laid down by the agreement should be flexible and geared to each country, and that 2008 cannot be a compulsory deadline for all countries as far as the expiry of special and individual treatment is concerned;

7. Stresses the need for the European Union to bear in mind the origins of its cooperation with the ACP States in the organisation of the banana trade, with a view to not endangering their economies;
8. Underlines how important it is for the WTO's rules and standards to be revised, so that the interests of sustainable development and the problems of the ACP countries are taken fully into account;
9. Calls on the European Union to ensure compliance with the clauses of TRIPS (Article 31) permitting derogations in order to allow parallel imports of medicines and compulsory licences for treatments on the WHO list of essential medicines; asks the European Union to argue for TRIPS to comply with the principles of the 1992 Protocol on Biodiversity and the FAO International Undertaking on Plant Genetic Resources;
10. Asks the Commission and the Council to make all possible efforts, particularly within international institutions, to achieve genuine cancellation of the debts of the poorest countries;
11. Hopes that the 'Everything But Arms' initiative by the Commission will contribute to a substantial improvement in access to the Community market for several ACP countries which are considered to be less developed; emphasises the fact that effective measures must be devised for carrying out checks and preventing the transfer of goods originating in and imported from those countries which are not included in the Commission's initiative;
12. Urges that the introduction of the Common Service for External Relations should not cast doubt on the ability of the Directorate-General for Development to define Community policies; in view of these points, recommends that the Partnership Agreement between the African Caribbean and Pacific States on the one part, and the European Community and its Member States, on the other part, should be ratified.