
**The Changing Environment of EU-ACP Relations:
The Cotonou Agreement**

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I. Introduction.

At a June 23, 2000 gathering in Cotonou, the capital of Benin, the 15 member states of the European Union (EU) and 77 Sub-Saharan African, Caribbean, and Pacific (ACP) countries signed a new partnership agreement. Otherwise christened as the Cotonou Agreement, the new pact succeeded and replaced the durable Lomé Conventions, which had expired on February 29, 2000 after a quarter-of-a-century of shelf life. The Cotonou Agreement (hereafter, Cotonou) is the outcome of 18 months of protracted and arduous negotiations between the partners. On the one hand, Cotonou constitutes an affirmation and a continuation of an age-old tradition and relationship that was formally begun in March 1957, when the Treaty of Rome was signed.¹ On the other hand, the new partnership agreement amounts to a profound shift in the nature and essence of the relationship, relative to previous EU-ACP conventions. In a sense, the name change from “Lomé Convention” to “Cotonou Agreement” is both symbolic and an embodiment of the shift in philosophy and in design of the relationship. It is symbolic, partly because the agreement could and was supposed to have been signed earlier in May 2001 in Fiji.² It is, however, also an embodiment of a break from the past as if to signal that the new relationship would not be business as usual, but the dawn of a new era.

Cotonou is, thus, a departure from Lomé, albeit some components (objectives, provisions, etc.) of the expired accord have been preserved in the new pact. Long before negotiations commenced in September 1998, both partners realized that much of the logic that underpinned the EU-ACP privileges and arrangements in Lomé was no longer tenable, and, thus, had to be revised in a future agreement. The EU initiated the discussion in 1996 with its publication of a long-awaited Green Paper on the future of the

relationship.³ Both sides disagreed, sometimes, rather heatedly, on the degree to which the revision should amount to a “nuts and bolts” tinkering (the ACP group’s preference) or to a “sledgehammer” overhaul (the EU’s preference) of the relationship. As with relationships of this magnitude and involving such diverse interests, some compromises were made during the negotiations. The compromises in the final product were invariably and often slanted in favor of the side with the power of the purse, in this instance, the EU.

The conceptual and practical imperatives that informed the new approach of Cotonou had as much to do with the performance of and the paradoxes (in the provisions and implementation) of Lomé as with the rapidly changing environment of the EU-ACP relationship. Foremost, the grumbling from within the EU and elsewhere was growing louder regarding the ineffectiveness of Lomé to catapult even a majority of the ACP countries to the community of middle-income countries after 25 years of privileged concessions. Many wondered aloud why ACP societies had not responded to the EU’s myriad financial and commercial stimuli. Secondly, developments on the global stage, such as the conclusion of the Uruguay Round of the General Agreement on Tariffs and Trade (GATT) and the creation of the World Trade Organization (WTO) in 1994, rendered untenable some provisions and arrangements of the Lomé accord. Thirdly, the European landscape has been experiencing some seismic magnitude shifts of its own, including, but not limited to, the January 1993 launching of the Single European Market (SEM), the January 1999 inauguration of the single European currency—the euro, and the planned widening of the EU to Eastern Europe as from the first decade of the 21st century.

All told and in any event, the purpose of this paper is to flesh out the aforementioned forces that have characterized the changing climate of EU-ACP relations, particularly since the final decade of the 20th century. However, more in-depth analyses of some of the forces beyond what is furnished here, as well as how they have been addressed in Cotonou, will be the subject of future/other research. In any case, in order to provide the context for the discourse in this paper, the ensuing section will provide a cursory review of the Lomé Convention (and its precursors) by identifying its key provisions as well as briefly assessing its efficacy. It will be followed in section three by a discussion of the forces that comprise the changing environment of EU-ACP relations and explicate why Cotonou had to be different from its forerunners. The penultimate section four will examine the Cotonou Agreement, highlighting, inter-alia, its main provisions and innovative features. The discourse concludes with a summary and an analysis of Cotonou's new approach, especially the likelihood that it will accomplish in two decades or less what Lomé failed to achieve in its two-and-a-half decades.

II. In the Beginning: a retrospective on the forerunners of Cotonou.⁴

As noted earlier, EU-ACP relations can be traced to the European Economic Community (EEC) Treaty of Rome, in which provisions were made to preserve the special economic relationship that existed between the EEC countries and their colonies, and also to promote their economic and social development. Following the independence of most of the OCTs by the early 1960s, the EEC negotiated and concluded an association agreement with its largely francophone former colonies in Sub-Saharan Africa (SSA). The accord between the EEC (of six member states) and 18 Associated

African States and Madagascar (AASM) was signed in Yaoundé, Cameroon in 1963. The essentially reciprocal trade, technical cooperation, and economic assistance pact was renewed for another five years in 1969 (Yaoundé II).

The accession of the UK to the EEC in 1973 paved the way for the Community to negotiate and conclude a new and single agreement with the AASM group and former British colonies in SSA and in the Caribbean and Pacific islands.⁵ The agreement was signed in Lomé, the capital of Togo, in 1975 between the EEC (of nine member states) and 46 ACP countries. The Convention was subsequently renegotiated, signed, and entered to force in 1980 (Lomé II), 1985 (Lomé III), and 1990 (Lomé IV). A midterm review of the fourth convention was undertaken as required in 1995, which involved a new EDF financial package. At each successive Lomé convention, new issues were introduced, which was partly a tribute to the gradualist and incrementalist logic that underpinned EU-ACP relations. Broaching new and sometimes sensitive topics was also as much a sign of the changing time as it was a reflection of the partners feeling more comfortable with each other. Among, sometimes, delicate and controversial issues that were introduced in EU-ACP relations since 1975 were non-reciprocal trade concessions (Lomé I), the globalization of EU-ACP cooperation (Lomé II) and economic, social, and cultural rights, as well as human dignity (Lomé III). Others included human rights, structural adjustment policy, economic diversification, intra-ACP regional cooperation, democratization, and rule of law (Lomé IV). According to most observers, Lomé remained the most far-reaching, elaborate, and complex North-South contractual agreement among its contemporaries.⁶ During most of the accord's 25-year history, it was widely held as the undisputed flagship of the EU's development initiative, largely

because of its unrivaled extensive concessions to the ACP group. Thus, it occupied the apex of the EU's pyramid of privileges for almost two-and-a-half decades.

One of the principal provisions of all four Lomé Conventions was non-reciprocal trade concession, which allowed roughly 90% of ACP exports, predominantly primary commodities, to enter the EU duty free. Special protocols that governed the exports of ACP sugar, rum, beef, veal, and bananas to the EU were appended to the convention. Another privilege of the pact was the provision of economic assistance to the ACP countries via the European Development Fund (EDF). The disbursement of funds and the management of the EDF, which were first introduced for the OCTs in 1958, were based on "need," defined by, among others, per capita income. The third privilege the ACP group enjoyed was the provision of two commodity insurance schemes, viz., the stabilization of exports (STABEX) in Lomé I and the system of minerals (SYSMIN) in Lomé II, respectively for countries that were dependent on agricultural exports and on the exports of minerals. The insurance schemes were designed to help mitigate the economic and budgetary impacts of shortfall in export revenues of the aforementioned primary commodities. A fourth privilege was the provision of industrial and technical cooperation, which was designed to enable ACP countries to tap the EU's know-how for the industrialization and development of their societies. To this end, a Center for Industrial Development (CID) and an Industrial Cooperation Board (CIB) were established. A final major provision of the arrangement was the creation of a handful of institutional frameworks to facilitate policy dialogue.⁷

In spite of the aforementioned privileges, and as will be discussed in the next section, many ACP countries remain in the ranks of the least developed countries.

Whereas a handful of ACP countries availed themselves of the exclusive arrangement, most ACP states regressed during the past two-and-a-half decades. To its credit, however, Lomé had its bright sides and accomplishments, without which it would be difficult to fathom why it existed for as long as it did. One of its bright spots was that it remained, throughout its existence, the largest North-South economic relationship, which involved almost one billion of the world's population—71 ACP states (roughly 630 million people) and 15 EU states (roughly 370 million people)—that spread across multiple continents. Lomé, thus, sensitized both sides to the concerns, yearnings, vulnerabilities, and constraints of the other in an increasingly and extremely competitive global economy. Another achievement was that the relationship provided a forum for dialogue and cooperation in international fora, thus raising the visibility and stature of both groups of countries. Furthermore, none of the Lomé Conventions was imposed on the ACP group. Instead, all four conventions were negotiated, signed, ratified, and implemented. It could, therefore, be argued that another achievement of Lomé was the fact that despite the size of the countries involved and the fragility of many of the issues, the partners persevered and the relationship did not collapse. Moreover, Lomé attracted more LDCs to the ACP fold, as its membership grew by more than 50% between its inception in 1975 and its expiration in 2000.

III. Since the Beginning: the imperatives that inspired Cotonou.

There is no doubt whatsoever that the environment within which EU-ACP relations have existed and will continue to exist has profoundly changed. For starters, the EU has become a more visible actor on the global stage, inter-alia, by concluding a series

of formal bilateral and multilateral relationships with virtually every nook and cranny of the world. To the extent, therefore, that the EU-ACP relationship is merely a part of the EU's myriad external economic relations nowadays, it must be fine-tuned in order to co-exist with other EU-third countries accords, as well as compete with them for scarce EU resources. Additionally, both the competencies and the memberships of the EU and the ACP groups of countries have grown, implying a diffusion and divergence of interests, which, in turn, would necessitate a fine-tuning of the age-old relationship. In any case, the focus of this section is to identify and explicate three imperatives that inform the Cotonou Agreement as a noticeable departure from the business as usual approach that characterized the (re)negotiation and implementation of Lomé.

The Global Arena Imperatives

(a.) GATT/WTO Obligations: perhaps the most important reason why the innumerable concessions of Lomé were no longer tenable was the conclusion of the Uruguay Round of the GATT and the entering to force of its successor, the WTO, in 1994. These events occurred about the same time Lomé IV was due for its midterm review. To be sure, one of the virtues the GATT/WTO tries to promote is the Most Favored Nation (MFN) principle that aspires to establish and advance equal treatment and non-discrimination among its member states. Given the exclusivity of most of the privileges of Lomé, the conventions were vulnerable on legal grounds. Arguably, the most susceptible of the concessions under Lomé was the non-reciprocal trade regime, which was not compatible with WTO rules, because it was extended to only and all ACP countries, irrespective of their level of development. Such a restricted market access privilege is a violation of the MFN principle, especially Article XXIV of the GATT. Although allowance is made in

the GATT/WTO for North-South arrangements such as the EU-ACP pact to elicit a waiver from the WTO for restricted non-reciprocal trade preferences, such exemptions are not meant to be indefinite.⁸ In response, and to remedy the problem by complying with Article XXIV (GATT/WTO), the EU proposed a series of free trade agreements (FTAs), also known as Economic Partnership Agreements (EPAs), with individual and blocs of ACP states in future EU-ACP relations.⁹ The EU wanted FTAs to replace non-reciprocal trade preferences exclusively for ACP countries. In other words, non-reciprocal trade regimes would be a privilege of the past, perhaps with the exception of the least developed and highly vulnerable (ACP and non-ACP) countries.

Another area where the Lomé accord was inconsistent with GATT/WTO rules was in regards to the special protocols on veal, rum, sugar, bananas, etc. Clearly, as designed, the protocols favored ACP producers over non-ACP exporters. Not surprisingly, therefore, some non-ACP exporters of bananas, for example, had complained to the EU and to the WTO about the discriminatory nature of the relevant protocol. Their complaints had become more strident by the mid-1990s. In fact, by 1994, two Dispute Settlement Panels on Bananas ruled that the protocol was incompatible with Article XXIV of the GATT. The EU, however, blocked the adoption of both reports. Following the inauguration of the WTO, the US government, joined by four other governments,¹⁰ filed the first of a series of complaints with the WTO in 1995, challenging the legality of the Banana protocol. The complainants alleged that the protocol was in violation of the MFN, national treatment, and non-discrimination clauses of the GATT, because it discriminated against importers and distributors of non-ACP bananas, especially the so-called “dollar banana” producers of Central America. The

WTO's Dispute Settlement Body (DSB) ruled in 1997 against the EU and the ACP states, citing several areas where GATT rules were violated.¹¹ Despite the EU's attempt to modify the banana regime of Lomé, it was later determined by the DSB that the EU's proposed remedies on the protracted banana dispute did not sufficiently comply with the EU's WTO obligations under the previous DSB ruling on the subject.¹² The DSB ruled that while the EU could, under certain circumstances, grant preferential treatment to ACP banana exporters, the EU's quota and licensing system of Lomé still discriminated against non-ACP producers.¹³ In the final analysis, legal imbrolios that stem from the commodity protocols of Lomé have rendered such exclusive privileges increasingly indefensible.

(b.) The end of the Cold War: another imperative on the global stage was the swish of the ostensibly impenetrable Iron Curtain and the concomitant end of the Cold War in 1989-1990. The end of the Cold War ended an ideologically based bipolar world between the erstwhile Soviet Union-led camp and the US-led Western alliance. Similarly, the dismantling of the Berlin Wall that had partitioned the European landscape during much of post-World War II affected EU-ACP relations in at least two significant ways. Firstly, it broadened the horizon and scope of the EU's external economic relations. In other words, the EU had to re-define its relationship with its eastern neighbors, but in the broader context of its overall external relations. In re-defining the relationship, the EU had to take short- and long-term perspectives, both of which had profound consequences for the ACP. In the short term, the EU provided immediate assistance to the former communist governments, especially as they began reforming their dilapidated and neglected economies. In the long term, the EU also had to provide adequate financial and

non-financial resources to prepare the former totalitarian European states to “return to Europe,” via institutional reforms and economic transformations as it prepared them for eventual EU membership. After all, Article 49 of the Consolidated Version of the Treaty on the EU¹⁴ invites any European state to apply for membership, and East European countries have queued up. In any event, in both of the above scenarios, ACP countries felt threatened and reacted negatively, and the European Commission’s response was just as snappish. The perception of the ACP group was that funds that had previously been earmarked for the group were being re-directed to Eastern Europe.¹⁵ ACP countries would now have to compete for EU attention *cum* resources, because of a more immediate and urgent need in the EU’s neighborhood.

Secondly, the collapse of the totalitarian states and planned economies of Eastern Europe meant, in a sense, the vindication of laissez-faire market-oriented economies and of pluralist democracy. The EU was, thus, emboldened by the enthusiasm and the vigor with which east European countries pursued the precepts of liberal democracy, free and fair elections, and so forth. If post-Communist Eastern Europe could democratize its polity and liberalize its economy, why couldn’t and shouldn’t the ACP countries be compelled to follow suit? Besides, political and economic reforms in ACP states might increase the odds of those societies of benefiting from the concessions of the EU-ACP relationship. Ostensibly, enabling civil society and other non-state actors to join the economic and political arenas would widen the political landscape, revitalize political dialogue, enable fresher ideas, and, ultimately, increase the chances for (sustained) development, *ceteris paribus*.

Additionally, the willingness of East European countries to subscribe to transparent decision-making also meant that the EU could no longer turn a blind eye on the political intransigence of ACP (and non-ACP) states. In a sense, therefore, the positive developments of Eastern Europe could prompt a renaissance of the principles of rule of law, human rights, pluralist democracy, economic liberalization, and so on in EU-ACP relations. To that end, the EU proposed making the disbursement of its limited resources to its ACP partners more contingent-based and more performance-oriented. Previous attempts by the EU to influence the behavior of ACP governments under the Lomé conventions had been resisted on the grounds that such overtures encroached on their sovereignty. To be sure, the inclusion of these conditionalities in the EU's negotiating mandate for the Cotonou Agreement was also greeted with resistance, but the EU side prevailed.¹⁶ The insistence of the EU to include such conditionality clauses in the new pact can be attributed to global changes that emanated from Eastern Europe, as well as to the realization by the ACP group that it had to compete for the EU's resources in the new dispensation.

(c.) Globalization & Regionalization: a third global imperative is the advent of globalization and regional integration. Both are in vogue and are clearly evident in many regions of the world. However, there are growing misgivings in some quarters of the world about globalization in particular.¹⁷ In light of this, the EU seems to be taking the view that the phenomenon need not be zero-sum, be disastrous for the South, and widen the gulf between the North and the South. It seems the EU is hoping to use the EU-ACP relations to demonstrate that globalization can be positive-sum and beneficial to all and sundry. To this end, and in consonance with WTO principles, the EU, during the

negotiations of Cotonou, argued that regional integration could and should be used to effectively link ACP societies to the global economy. The EU took the view that ACP countries would be better positioned to advance their development only if they were properly and effectively integrated into the global economy. Hence, the EU proposed replacing the non-reciprocal trade regime with a series of FTAs/EPAs that, after a transition period, would allow ACP states to develop their national and/or regional infrastructures and capacities.

The European Imperatives

(a.) Widening of the EU: every enlargement of the EU has certainly influenced the need for a different EU-ACP relationship since 1957. Each time the EU has welcomed new members to its fold, the relationship between the EU and the ACP group has been affected. Before the first enlargement of the 1970s, “EU-ACP” relations were tilted in the direction of former French and Belgian colonies in Africa. As noted earlier, UK accession in 1973 brought about a more comprehensive and expanded relationship between the EU and its ACP partners. Specifically, former British colonies were brought into the EU-ACP picture. The enlargement of the 1980s further sensitized EU external relations to Latin America, the former colonies of Portugal and Spain. Following the 1986 accession, EU contacts with Latin America steadily grew, as Spain, in particular, lobbied for the region within the EU both in the Commission, when policies are being formulated, and in the Council, when the fate of policies are being decided. The 1986 enlargement arguably marked the beginning of the ebbing of the ACP group’s importance with respect to the EU’s pyramid of privileges. The enlargement of the 1990s, when Austria, Finland, and Sweden acceded to the EU, continued the ebbing of ACP

importance in Brussels, especially as the new EU member states historically had no colonial ties with the ACP countries.¹⁸ The 1989-1990 political earthquake in Eastern Europe and the impending accession to the EU in the near future by East European states will further challenge the importance of the ACP group in the EU. For instance, it is amply documented that Sweden and Finland are championing the eventual accession of their Baltic neighbors. As noted above, the next enlargement will amount to a fiercer competition by the ACP group for the EU's finite resources, especially as its internal and external obligations grow.

(b.) Commission Reforms: a second European imperative that informed the changed environment of EU-ACP relations is the growing competence and bureaucracy of the EU. The increased number of Directorates General (DGs) of the European Commission has translated into a proliferation of ideas and of policies. More poignantly, the ACP group, for which the DG for Development was created, is no longer the only external/development policy for which there is a bureaucracy to lobby on its behalf. Given the importance the EU has attached to enlargement,¹⁹ it would be naïve to think that the DG and Commissioner for Enlargement would not carry more weight within the European Commission nowadays, relative to their Development counterparts.

(c.) Deepening Integration: the consolidation of European integration is equally forcing changes in EU-ACP relations. Most notably and most recently, the entering to force of the European Union Treaty of Maastricht (1993) and of Amsterdam (1999) necessitated the modification of some aspects of its relationship with the ACP countries (and others). After all, EU mandates on external economic relations derive from the establishing treaties—the legal bases for EU policies around the world, including EU-ACP relations.

For example, the Common Foreign and Security (CFSP) pillar of the Maastricht treaty provided the legal underpinnings for the inclusion of political dialogue, economic partnership, and social development in the negotiation of Cotonou. Article J.1.2 of the Treaty of Maastricht provides that the CFSP shall “preserve peace and strengthen international security..., promote international cooperation, develop and consolidate democracy, rule of law, and respect for human rights and fundamental freedoms.”²⁰ In order to comply with the provisions of the article, the EU overtly pushed for development cooperation policies to promote pluralist democracy, human rights, the rule of law, and good governance in ACP societies. Similarly, in the negotiation of the new pact, the EU also pushed for explicit provisions for poverty alleviation and eradication to be placed at the core of future EU-ACP relations. The EU also argued for the inclusion of gender equality as a means of enabling sustained economic development. The aforementioned measures were proposed by the EU partly to make the EU-ACP relationship consistent with the European Union Treaty of Maastricht.

Another example of how the deepening of European integration would affect the new EU-ACP pact was the launching of the SEM initiative, which sought to eradicate trade barriers within the EU and create an opportunity for one stop shopping. To that end, Lomé concessions, such as the banana protocol were inconsistent with the logic of the SEM. The banana protocol, for example, restricted the distribution of imported ACP bananas within the EU, which was a clear violation of the free movement of goods (Title I, Treaty of Amsterdam).²¹ The negotiation of EU-ACP relations also had to be altered by yet another attempt by the EU to consolidate its integration, namely, the advent of the euro. For instance, in 1998, the Council of Ministers for Finance agreed to allow the

CFA Franc, which is widely used by France's former colonies in SSA, to be pegged to the euro. The implications of the euro for EU-ACP relations are the subject of another inquiry.

(d.) EU's Global Visibility²²: the growing visibility of the EU in the international arena as noted earlier also necessitated an alteration in the relationship between the EU and the ACP group. The enhanced profile of the EU on the global stage means that more constituencies are dependent on its benevolence nowadays, especially in light of evidence of growing poverty, unequal distribution of wealth in the world, and increasing donor fatigue. Already, the EU is the largest provider of economic assistance and relief measures across the globe. Yet the demands on its resources have not subsided. One can, therefore, appreciate why it would be frustrated, especially if the previous privileges of Lomé have failed to advance the development of ACP societies.

ACP Imperatives

(a.) Disappointing Results: notwithstanding the concessions of the Lomé Convention and the preferential access to the EU market, however, the overall welfare of the ACP countries has been disappointing. Perhaps the most telling of the statistics is the share of ACP products in total EU imports (imports from the South), which has precipitously declined from roughly 8% (20%) in 1975 to under 4% (9%) by the late-1990s.²³ Conversely, non-ACP developing countries of Asia and Latin America more than doubled the proportion of their products in total EU imports from the South. Despite the poor performance of the ACP group, most of the member countries still depend today, as in 1975, on the exports of the same handful of primary commodities for foreign exchange, thus implying lack of diversification. For example, in 1998, of their total

export earnings, oil accounted for roughly 80% in Congo, and 90% in Angola and Nigeria. In that same vein, the degree of commodity dependence was estimated at 90% in Botswana (diamond), Burundi (coffee), Rwanda (coffee), and Zambia (copper). Other commodity concentrated economies in the late-1990s included Ghana (cocoa @ 46%), Sudan (cotton @ 43%), Central African Republic (diamond @ 41%), and Malawi (tobacco @ 40%).

Indeed, labor-intensive primary products constitute over 80% of ACP exports to the EU, while the share of such products in total extra-EU imports has declined since 1975. Consequently, and despite two-and-a-half decades of EU concessions, 41 of the 63 countries in the World Bank's unenviable category of least-developed countries (LLDCs) are ACP Member States.²⁴ Additionally, an estimated 45% of the SSA and almost 40% of the Caribbean peoples still live below the poverty threshold, surviving on \$2 or less daily.

(b.) Unwieldy Group: another ACP imperative for altering EU-ACP concessions stemmed from the size of the group, which had increased from 46 in 1975 to 71 in 2000. The argument was that the group had grown too large for any meaningful and effective development strategies to be developed. The growing concern among observers was that it was time to abandon the straitjacket "one size fits all" logic that underpinned previous EU-ACP arrangements. It was argued by the EU and by observers of the relationship that perhaps the reason why previous concessions had not advanced the development of ACP societies was because the strategy was predicated on a flawed assumption that all ACP countries suffered the same maladies. Critics pointed out that previous concessions made little distinction between the development challenges of ACP countries.²⁵ The new

thinking that informed the strategy and the EU's negotiating mandate for the new agreement was to cluster ACP countries by needs and levels of development. Doing so, for example, would afford the EU to devote certain resources/concessions to certain ACP states, while complying with WTO rules. Furthermore, clustering would enable a narrower and more accurate diagnosis of afflictions among ACP countries, which, in turn, should lead to a more effective panacea. Clustering, argued the EU, would also allow an individual ACP country or a sub-group of ACP countries to travel at different speeds, by concluding a series of free trade agreements with the EU, and to enable intra-ACP cooperation and integration. On this point, both partners agreed that the arrangement would promote South-South interaction, a departure from the stodgy North-South framework of previous accords.

(c.) Institutional Reforms: a third reason why an altered approach was considered necessary was the fact that the pre-Cotonou model was not designed to reward performance, after all, some ACP countries, such as Bahamas, Barbados, Fiji, Mauritius, and Trinidad & Tobago have availed themselves of EU concessions. Thus, in the negotiation of Cotonou, the EU introduced performance-based provisions/concessions, exemplified by its positive differentiation initiative. It was also felt that the reason why most ACP countries showed no evidence of development might have something to do with the cumbersome procedures that governed the disbursement of the EDF. In fact, almost €10 billion of unspent funds remained from the Lomé Conventions, arguably, due to the burdensome procedures for accessing funds, the incompetence of ACP bureaucrats, and extenuating circumstances in ACP societies. To that end, both parties, especially the ACP countries wanted the procedures for accessing funds to be streamlined.

IV. The Cotonou Agreement²⁶: the devil is in the detail.

Next, we turn to a discourse of the new partnership agreement, with special emphasis on its innovative provisions, thereby highlighting how it has accommodated the foregoing imperatives. The new accord essentially builds on the *acquis* of the Lomé Convention by reforming the relationship. Unlike its precursor conventions that were concluded for five- or ten-year periods, the Cotonou Agreement has a 20-year duration. However, the pact is to be reviewed every five years, and some of its components, such as the procedures for the implementation of financial assistance, may be reviewed annually. Similarly, the financial protocol is designed for five-year periods. The Agreement is divided into six parts, all but two of which are further sub-divided into titles, chapters, and sections. The six parts deal with general provisions, institutional provisions, cooperation strategies, development finance cooperation, general provisions for the least developed, landlocked, and Island ACP states (LDLICs), and final provisions in that order. Appended to the main text are five annexes, respectively on financial protocol, institutional support, implementation and management procedures, and trade regime applicable during the preparatory period. Finally, there are five major protocols that cover varied and all-too-familiar issues from the Lomé era, such as originating products, sugar, beef and veal, and bananas.

Summarily, the main objectives of the new partnership agreement are the reduction and eventual eradication of poverty, sustainable development, and the gradual integration of ACP countries into the global economy. The new Agreement is also based on the fundamental principles of equality of the partners, ownership of the development strategies by ACP countries and populations, inclusion of different kinds of actors, and

differentiation and regionalization of the cooperation agreement. The accord is intended to significantly advance the economic, social, and cultural development of the ACP societies, to help them cope with the challenges of globalization, and to strengthen EU-ACP partnership. Consequently, each ACP country is to take the lead in setting up its own development strategies and initiatives, which must be supported by the financial and ancillary instruments of the Convention, and driven by the stated objectives of the new partnership. Additionally, the development initiatives are to be integrative and wholistic with a view to the political, economic, social, cultural, and environmental aspects of sustainable development. Next, we will flesh out the five major interrelated dimensions of the Cotonou Agreement.

The Political Dimension: this provision addresses such issues as political dialogue, peace-building, and other essential and/or fundamental elements of sustainable development in ACP countries. Essentially, this dimension calls for regular dialogue between the EU and the ACP groups to address specific political issues of mutual interest or of general significance. Such dialogues would include the employment of regional initiatives and conflict prevention and resolution policies to tackle the perennial problems of political instability within and between ACP countries. The dimension also identifies respect for human rights as well as democratic principles and the rule of law as “essential elements” of sustainable development. Serious violations of any of the elements would trigger sanctions on the affected ACP country. Consequent to the ACP group’s earlier opposition in the 1999 Santo Domingo Declaration, “good governance” was derogated from “essential elements” to “a fundamental and positive element.” What it means is that, while the partners acknowledge the importance of good governance, violations

would not necessarily result in financial penalties. To be sure, the partners clearly recognized that a politically stable, democratic, and rule-abiding society is a precondition for sustainable development and the eradication of poverty, as stated in the preamble and variously in the Agreement. The onus of creating such an enabling and favorable climate, however, shall rest squarely on individual ACP countries.

The Civil Society Dimension: this provision is intended to encourage and maximize participation of non-state economic and social actors in the implementation of the Convention's programs and projects. It is an attempt to decentralize cooperation and depart from the previous paradigm of state-state political dialogue and top-down implementation of projects and programs. It is, thus, recognition of the failure of the old approach, which excluded civil society and denied crucial ownership of programs and projects that were funded by Lomé. This dimension is intended to facilitate interaction and the sharing of vital information between "public actors," defined as local, national, and regional governments/authorities and "non-state actors," defined as the private sector, economic and social organizations, and civil society. It is also designed to facilitate networking between EU and ACP partners. In other words, in addition to the Convention's institutions, viz., the Council of Ministers, the Committee of Ambassadors, and the Joint Parliamentary Assembly, political dialogue is to encompass civil society, the private sector, and other non-state actors. This principle of expanded participatory approach to sustainable development would not only enrich the dialogue among society's stakeholders, but would also increase the odds of achieving the stated objectives of the Convention. The implicit assumption is that the involvement of civil society, both in the development of pertinent initiatives and strategies as well as in the implementation of

projects and programs, would encourage ownership/empowerment and ultimately facilitate sustainable development in ACP countries.

The Poverty Reduction Dimension: this is arguably the epicenter of the objectives of the Cotonou Agreement, especially given its recurrence in the agreement. The reduction of poverty in ACP countries is explicitly and otherwise stated as the central objective of the Agreement in its preamble, Development Strategies, and other provisions. Indeed, virtually every aspect of the new Agreement, directly or otherwise, targets or alludes to poverty reduction/eradication as a major goal. To combat poverty in ACP societies, the strategy would reflect both the international commitments of the partners under the auspices of august bodies, such as the UN, as well as the multidimensional nature of poverty. The new accord calls upon each ACP country to design its own consolidated and integrated development framework that is workable and measurable. It further provides for the inclusion of non-state actors in such undertakings in order to encourage local ownership of economic and social programs/projects. To that end, the approach to poverty reduction aims to develop strategies and policies that are broad-based and cover the gamut of important stakeholders. Such an integrated and global approach to poverty reduction/eradication would have to heed private sector development and investment, economic and structural reforms and policies, economic sector development, tourism, social sector development, youth-related concerns, cultural issues, regional cooperation and integration, gender equality issues, environmental and natural resources concerns, and institutional and capacity building.

The Trade Dimension: the much-vilified “non-reciprocal” trade preferences the ACP partners enjoyed under the expired Lomé Convention are to be gradually replaced, as

expected, by a series of “economic partnership agreements” (EPAs) with the EU such that EU-ACP trade regime is in consonance with WTO rules. EPAs are to be negotiated and concluded by January 1, 2008, when the new trading arrangements are to enter to force. Formal negotiations of the EPAs are to commence in September 2002. In 2004, the EU is to assess the cases of those ACP countries that are not in the category of “least developed” and are deemed unsuitable for EPAs, and WTO-compatible alternative arrangements are to be explored for them. In 2006, a formal and comprehensive review of the arrangements that are planned for every ACP Member State will be undertaken in order to ensure that additional time is not needed for preparations or negotiations. The Agreement stipulates that EPAs will be concluded with only those ACP countries that consider themselves ready for the regime, at the level they consider appropriate, and in accordance with regional integration processes within the ACP region. The EPAs will establish the timetable for the gradual removal of barriers to trade between the EU and ACP states, after the entering to force of the new trade regime. Meanwhile, the EU is to commence in 2000 the liberalization of all imports from the world’s poorest or least-developed countries (including qualified ACP states), such that by 2005, all exports from the affected countries will enter the EU duty free. Additionally, the Convention provides for a “preparatory period,” defined as 2000-2008, during which both the public and the private sectors of ACP countries are to enhance their competitiveness, strengthen regional organizations, and support regional integration initiatives.

Finally, whereas the new accord maintains the commodity protocols (sugar, beef, veal, banana), they are to be reviewed later in the context of the new trading arrangements and ensured that they are WTO-compliant. In essence, the new Agreement

aims to gradually liberalize trade between the two partners, gradually integrate the ACP economies to the global economy, increase production and trading capacities, and ensure the compatibility of new trading arrangements with WTO rules. For all practical purposes, the trade dimension is designed to utilize trade as an engine of growth and sustained development, by gradually liberalizing trade relations between the partners and concluding free trade arrangements with ACP countries/groups. This would be consistent with the EU's recent initiative in this regard, such as the FTAs it concluded with the Republic of South Africa and with Mexico.²⁷ It would also ensure compliance with WTO principles of non-discrimination and most-favored nation (MFN). Thirdly, the dynamism that would be generated by ACP trade and the gradual integration of their economies into the world market, would, other things being equal, stimulate sustained development.

The Financial Cooperation Dimension: the Agreement includes provisions on both the implementation of development assistance and the size of the assistance. In other words, on the one hand, the new pact addresses varied reform issues, such as how development assistance will be determined and disbursed, while, on the other hand, the pact identifies the financial instruments and their allotted amounts. The instruments and the implementation of the development aid regime are a departure from the past. For example, grants will henceforth be applied to offset shortfalls in export earnings, especially for commodity dependent ACP countries, thereby replacing STABEX and SYSMIN. The two commodity insurance schemes are effectively converted to structural adjustment support, and enable a broader number of ACP beneficiaries. Additionally, in contrast to past practice, the new aid regime is centralized and rationalized, such that each

ACP country is entitled to a lump sum for a five-year period. However, access to the funds will not be automatic, as it will hereafter be based on need and past performance, that is, result-oriented. Furthermore, the financial resources will not be locked to specific projects, although certain sectors will be emphasized in order to maximize overall impact. Another innovative idea in the pact is the establishment of a system of Country Support Strategy (CSS), which is designed to take stock of the socio-political and economic climate as well as the development strategies of an applicant ACP country. Finally, the new Agreement has replenished the 9th EDF to a tune of € 13.5 billion during the first five years of the Agreement, € 10 billion of which are intended for long term financing, another € 1.3 billion for regional financing, and € 2.2 billion for investment financing. Moreover, the unspent € 9.9 billion from previous EDF, plus another € 1.7 billion of funds from the European Investment Bank (EIB) will also be available to the ACP group.

V. In Conclusion: praxis and analysis.

This inquiry has examined the main forces that necessitated Cotonou. After all, Lomé could have been renegotiated and renewed as it had on three occasions during its 25-year history. However, the environment in which the age-old EU-ACP relationship has existed has profoundly changed since the inception of the first Lomé Convention in 1975. The world has become “smaller” as a result of technological advancement, which has concomitantly altered and broadened the horizon of both partners, with regard to new challenges and aspirations. The advent of globalization and regionalization, for example, has impacted both partners differently, and had to be accommodated by the new EU-ACP partnership in the new millennium. Additionally, current international obligations of EU

and ACP countries under the auspices of multilateral institutions, such as the WTO and the UN, have made some previously acceptable privileges no longer defensible. Moreover, both partners have grown in membership, thus suggesting a concomitant divergence of interests within and between the groups. Besides, after 25 years, perhaps EU-ACP relations had become stale, especially since it did little to advance development in most ACP countries.

Cotonou is designed to reinvigorate the age-old relationship. Undoubtedly, the new partnership agreement contains some innovative ideas as well as some old ones. On the one hand, the new partnership agreement does not appear to be profoundly dissimilar, at least substantively, to its forerunners, because most of the issues it covered had been broached in the preceding conventions. Cotonou, therefore, amounts to a re-packaging of essentially old ideas save a few bold initiatives, such as the (regional) EPAs, augmenting the visibility of civil society and other non-state actors. On the other hand, the new pact has attempted to refine the age-old relationship in order to make it user-friendly, more effective in effecting the development of ACP societies, and more flexible and adaptive to a dynamic global environment. The jury is still out on how likely the “new and improved” partnership agreement is to alleviate and eradicate poverty in ACP societies, effectively integrate their economies into the global economy, promote pluralist democracy and the rule of law, and ultimately advance and sustain the development of their societies.

It is without doubt that the Cotonou Agreement faces some challenges and lingering questions ahead. First, while the expansion of political dialogue to include civil society is noble and long overdue, are state actors that had monopolized the decision-

making scene in ACP societies virtually since independence prepared to share the center stage with non-state actors? Second, given resource constraints, does the EU have the manpower and resiliency to concurrently negotiate several EPAs with ACP countries and groups of ACP countries during the preparatory period? Third, would the ACP states have developed the requisite capacity to negotiate, conclude, and implement bilateral trade agreements during the allowed period? Adhering to the specified timetable will be a challenge for both sides, particularly the ACP group, given its antecedents and paucity of infrastructure and qualified personnel. On this point, it is interesting to note that many ACP countries had already missed a March 2001 deadline, when they were expected to indicate their preference on the EPAs, that is, whether they intended to negotiate on a bilateral or a multilateral basis. If the latter, they should also specify the regional bloc with which they preferred to be classified. On the other hand, it is heartening to note, albeit not surprisingly, that the EU has come through on one of its obligations under the Cotonou Agreement to liberalize trade for the world's poorest countries. Specifically, the EU's Council of Ministers for Trade agreed a new policy to remove trade barriers to all non-munitions exports of world's 48 least-developed countries, effective March 5, 2001. The "Everything but Arms" (EBA) concession is in conformity with WTO principles of non-discrimination, because it is extended to both qualified ACP and non-ACP countries.²⁸ Most notably, by excluding armaments, the EBA could combat a major contributor to instability and, thus, poverty in many ACP countries. What is, however, unclear is how the relatively affluent ACP states would be affected by as well as cope with the monstrous and ostensibly irredeemable Common Agricultural Policy (CAP) and other EU policies that continue to subsidize EU producers.

Will Cotonou deliver and succeed where its precursors had not? Only time will tell. Meanwhile, additional research should closely investigate the merits and the demerits of some of the key provisions of the new partnership agreement, and try to conjecture an answer to the question.

Notes.

¹ Part Four of the European Economic Community (EEC) treaty made special allowances for the Overseas Countries and Territories (OCTs) of the European signatories of the treaty. To be sure, the relationship between the two groups of countries, which was not always benign, can be traced back to the 15th and 16th centuries, the era of European adventurism, through the colonial era of the late-19th and early 20th centuries.

² The Agreement was initially slated for a May 2000 signing ceremony in Fiji, which had to be scrapped because of a coup d'état in early May in the country.

³ See, Commission of the European Communities, *Green Paper on relations between the European Union and the ACP countries on the eve of the 21st century: challenges and options for a new partnership*, (CEC Publications, 1996), or http://europa.eu.int/comm/development/publicat/l-vert/lv_en.htm

⁴ See, among others, Olufemi Babarinde, *The Lomé Conventions and Development* (Avebury/Ashgate, 1994), Carol Cosgrove-Twitchet, *Europe and Africa: from association to partnership* (Westmead, 1978), Michael Dolan, "The Lomé Convention and Europe's Relationship with the Third World," *Revue D'Integration Europeenne*, Vol. 1, 1978: 369-394, Ellen Frey-Wouters, *The European Community and the Third World: the Lomé convention and its impact* (Praeger, 1980), John Ravenhill, *Collective Clientelism: the Lomé conventions and North-South relations*, (Columbia University Press, 1985), and Christopher Stevens, *EEC and the Third World*, (Hodder & Stoughton, 1980).

⁵ Protocol 22 of the UK's accession accord stipulated that an economic and social development package that was comparable to the EEC-AASM pact would be extended to the UK's former colonies in Africa, especially south of the Sahara. However, led by Nigeria and almost fortuitously, both groups of less-developed countries announced their preference for a single negotiated accord, purposely to enhance their solidarity and to pool their limited resources.

⁶ See, for example, Olufemi Babarinde, "The European Union's Relations with the South: a commitment to development?" in Carolyn Rhodes, ed., *The European Union in the World Community* (Lynne Rienner, 1998: 127-146).

⁷ It is important to bear in mind that the last two provisions are not unique to the Lomé Convention, because they can be found in other EU agreements with the LDCs.

⁸ The ACP group and the EU indeed requested such a waiver from the WTO after the midterm review as a transitional measure to help mitigate the impact of the cessation of non-reciprocity in EU-ACP relations. The waiver was granted in 1997 and expired in February 2000.

⁹ For a trenchant discourse of both partners' negotiating mandates, see, "Comparing the ACP and the EU negotiating mandates," *The Courier*, No. 173, January-February 1999:72-74 and "After Lomé, What Next?" *West Africa*, 9-22 November, 1998: 798-802. See also, *Green Paper on relations between the European Union and the ACP countries on the eve of the 21st century: challenges and options for a new partnership*, (CEC Publications, 1996).

¹⁰ The Central American countries were Ecuador, Guatemala, Honduras, and Mexico.

¹¹ See, among others, *Eurecom*, October 1995: 2, October 1997: 1, and November 1998: 2.

¹² The DSB ruling was in response to a complaint by Ecuador, and later by the EU.

¹³ See *Eurecom*, February 1998: 3 and April 1999: 2-3.

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- ¹⁴ See, Title VIII, Article 49 of the *Consolidated Version of the Treaty on European Union*, (CEC Publications, 1997)
- ¹⁵ For a trenchant discussion, see, for example, Carol Cosgrove, "The Impact of 1992 on EC-ACP Trade and Investment," in William Zartman, ed. *Europe and Africa: The New Phase*, (Lynne Rienner, 1993: 63-74).
- ¹⁶ For example, see, "Comparing the ACP and the EU negotiating mandates," *The Courier*, No. 173, January-February 1999:72-74 and "After Lomé, What Next?" *West Africa*, 9-22 November, 1998: 798-802.
- ¹⁷ Seattle 1999 and Prague 2000 are two examples where organized movements against globalization forced the IMF and the World Bank to either cancel or abruptly end their meetings.
- ¹⁸ Sweden, however, has a credible history of generously assisting LDCs, especially SSA financially.
- ¹⁹ A Commissioner with the Enlargement portfolio was created under the Prodi presidency to underscore the seriousness with which the EU treat the issue.
- ²⁰ Treaty on European Union, http://europa.eu.int/eur-lex/en/treaties/dat/eu_cons_treaty_en.pdf
- ²¹ Treaty of Amsterdam, http://europa.eu.int/eur-lex/en/treaties/dat/ec_cons_treaty_en.pdf
- ²² See, among others, Pitou van Dijck and Gerrit Faber, eds., *The External Economic Dimension of the European Union* (Kluwer Law International, 2000), Carolyn Rhodes, ed., *The European Union in the World Community* (Lynne Rienner, 1998), and Christopher Piening, *Global Europe: the European Union in World Affairs* (Lynne Rienner, 1997).
- ²³ Trade data for this inquiry were obtained from a variety of sources, including the *Direction of Trade Statistics* (various years) The International Monetary Fund, Washington, D.C. and *International Trade Statistics Yearbook* (various years) The United Nations, Geneva.
- ²⁴ *Global Development Finance*, 1998, The World Bank, Washington, D.C.
- ²⁵ For example, see "EU-ACP Negotiation," http://europa.eu.int/comm/development/event/negotiation10_en.htm
- ²⁶ The Cotonou Agreement, http://europa.eu.int/comm/development/cotonou/index_en.htm
- ²⁷ The EU-Mexico FTA, which was concluded in December 1999, entered to force on July 1, 2000 (*Eurecom*, July/August, 2000: 2), while the EU-South Africa FTA, which was concluded in 1998 has also entered to force.
- ²⁸ See, for example, *Eurecom*, March 2001: 3-4.