EU-ACP RELATIONS AFTER COTONOU AGREEMENT: RE-SET, RE-LAUNCH OR RETREAT?

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With the support of
Struck in 2000 in Benin, the Cotonou Agreement has shaped relations between the EU and African, Caribbean and Pacific countries (ACP) for nearly 20 years. The accord expires in 2020 and negotiations between the European Union and the ACP on its successor will begin in the coming weeks.

But while Cotonou Mark I was seen primarily as a trade and development instrument, the priorities for Cotonou 2 for both blocs have evolved. European countries increasingly view their relations with Africa through the prism of migration-control.

African countries are in the process of drawing up their own continent-wide free trade area and will speak as one voice in the talks. Caribbean and Pacific nations, for their part, want to see more investment and enhanced trade with Europe.

Can these competing demands be reconciled?
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The Cotonou agreement, has it fulfilled its promises?

By Céline Barbière | EURACTIV France / Translated by Beatriz Ríos

The Cotonou agreement has regulated cooperation between the European Union and the African, Caribbean and Pacific (ACP) countries since 2000. With negotiations on its successor about to start, the results so far seem mixed. EURACTIV France reports.

The agreement, signed between the African, Caribbean and Pacific countries and the EU in 2000, expires in 2020. It rules the political, commercial, cooperation and development relations between the two blocs, whose closer ties began in 1975 with the Lomé agreement.

The 79 partners have taken stock of the results of their exchanges before opening the negotiations to design a new framework for a future deal.

“The achievements of the Cotonou agreement are numerous. Everything is present in this agreement, even if not all have been applied with the same success,” a French diplomatic source explains.

COOPERATION ON HUMAN RIGHTS

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One of the pillars of the political cooperation between the two blocs is based on human rights, democratic principles and the rule of law that both parties have committed to respecting. This cooperation is ruled by Article 96 of the agreement, which allows suspending the aid in case of repeated violations of human rights.

In practice, the political dialogue foreseen by Cotonou has been used many times since the agreement entered into force.

Article 96, which authorises sanctions in case political dialogue fails, has been used regularly by the EU as a response to coups d’État or violations of human rights in Fiji Islands (2000 and 2007), Zimbabwe (2002), the Central African Republic (2003), Guinea-Bissau (2004 and 2011), Togo (2004), Madagascar (2020) and Burundi (2015).

However, certain provisions of the Cotonou agreement on political cooperation have never been applied, like Article 97, which foresees dialogue and sanctions against corrupt regimes. “It is a weakness of the deal,” a French diplomatic source admits.

Finally, if respect for sexual and reproductive rights is mentioned, the issue of LGBT rights constitutes a real weakness of the partnership agreement. During these past few years, discriminatory laws against LGBT people have multiplied in Africa in particular.

**ECONOMIC ASSESSMENT**

The commercial realm also shows some weaknesses. “The share of imports and exports between Africa and the EU keeps decreasing. Between 2012 and 2016, importations have fallen to 11.1% and exportation to 1%,” the African Union underlined in a common position assessing the findings of cooperation with the EU as neither good nor bad.

“In fact, the record of the Economic Partnership Agreement (EPA) is quite modest,” a French diplomatic source admits. Signed between the EU and the regional blocs of the ACP countries, these agreements are largely criticized by the African countries, blaming it for hindering the integration of the continent by fragmenting the regional markets.

Several countries, like Nigeria, always refuse to sign the EPA, as they estimate that those agreements are made to the detriment of the national markets opened to the European competition.

**THE UPCOMING NEGOTIATIONS**

The achievements of the Cotonou agreement must be discussed from 1 September. But the problem is that nothing is foreseen in case that deadline is not respected.

The European Union adopted its mandate by the end of June, the ACP group, a little earlier, in May. However, at the start of July, the Commission of the African Union asked for an extension to adopt a common position, which could postpone the official start of the negotiations.

Uncertainties regarding the real pertinence of the Cotonou framework in the future relations between the EU and the ACP countries are increasingly subjected to questions.

“When this framework was designed, the EU had 9 countries. Now they are 28 and the Eastern European countries have nothing to do with this structure,” explained Jean Bossuyt, an expert on ACP-EU relations at the European Centre for Development Policy Management.

Another problem is the framework’s suitability for the current challenges, such as the rallying of domestic resources, the fight against global warming or the migratory flows.

“The main problem of Cotonou is that it is structured like a classic framework for development, it is a tool for assistance. However, it does not make it possible to respond to the big challenges such as the commercial transactions, migration or climate change, etc. Cotonou cannot address the challenges of the 2030 Agenda and the Sustainable Development Goals,” Bossuyt believes.
The African Union wants to have a continent-to-continent dialogue with Europe, a change that could make the framework of the Cotonou Agreement implode and leave the Pacific and Caribbean states out in the cold.

The 79 countries of the Africa, Caribbean and Pacific Group are due to begin formal negotiations with the European Union on 1 September to redraw the outlines of the Cotonou Agreement.

This broad agreement governing relations between the two blocs expires in 2020. But on the eve of the official renegotiation of the partnership begun in 1975, the ACP bloc is questioning its future.

“When this cooperation started in 1975, the agreement between the EU and the ACP countries was truly innovative. It was an attempt by European countries to build a partnership with their former colonies, helping them to integrate into the world economy while keeping them close. It was a postcolonial pact,” explains Jean Bossuyt, a specialist on ACP-EU relations at the European Centre for Development Policy Management (ECDPM).

“But that was 50 years ago. Is this framework still relevant today?” the expert continues. “The ACP group brings together 79 countries that are extremely different, that include both Nigeria and Vanuatu, for example. This group has become too heterogeneous.”

On the European side, the wish for maintaining the current framework, which brings together countries from the four corners of the globe, is not obvious.

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Some countries such as France, Belgium, Italy or Portugal wished to maintain cooperation with the ACP group. But others, such as Germany, Sweden or the Netherlands, called for the ACP framework to end.

“This cooperation makes it possible to maintain a pole of stability in 79 countries, particularly at a time when the United States is disengaging from multilateralism,” says a French source.

Conversely, other European powers consider that the ACP framework is no longer relevant, given the diversity of the countries it brings together.

“There are frictions between the African Union (AU) and the Pacific and Caribbean over the negotiating framework,” admitted a French diplomat. And for good reason.

Without the African partner, the group of 79 countries would no longer be worth the trouble for the European Union. “The main challenge of the ACP partnership is, after all, the relationship between Africa and Europe,” acknowledges the French diplomat.

AN ACP POSITION?

While negotiations for the redefinition of the Cotonou Agreement are due to start on 1 September at the latest, the various blocs have agreed on their negotiating mandate. The European countries agreed to maintain the current framework, giving the European Commission a mandate to open the talks.

On the ACP side, a negotiating mandate was also adopted in May. But the African Union has called for more time, wishing to adopt a separate position on the ACP mandate.

At a session in Kigali in March, representatives of the African Union resolutely took a stand against the alliance between the ACP countries.

“We commit to establishing a new framework for cooperation with the EU, separate from the ACP context,” the AU stated in its conclusions. “The new Agreement must be separated from the ACP context and based on a strong and lasting partnership between the two continents.”

For AU representatives, “the ACP Group can in no way represent a relevant policy framework to address global and regional governance, peace and security, and migration issues”.

Another point of tension is the fragmentation of African unity, induced by the current form of cooperation. Indeed, the ACP group includes the majority of African countries but excludes the most advanced economies, such as Morocco or Algeria.

“This geographical fragmentation of Africa in its cooperation with the EU weakens and slows down the ongoing integration process on the continent and undermines Africa's political and socio-economic interests,” underlines the African common position on the post-Cotonou period.

NO UNITY

Nevertheless, African countries are far from a unique position. “It is a total mess because the African countries do not agree among themselves on the need of the ACP group,” underscores Jean Bossuyt.

Beyond the political and trade cooperation provided for in the Cotonou Agreement, development cooperation constitutes the third channel of ACP-EU relations. And it's the one that developing countries are most reluctant to give up.

“Some African states such as Mali, Togo or Burkina Faso are still in favour of the ACP framework because they fear they will have less European funds in the framework of a partnership agreement with Africa alone,” explains Bossuyt.
The issue of how to control migration from Africa may have exorcised European leaders in recent years, but it could also derail the EU’s main political agreement with the continent.

Eighteen months of talks on a new agreement to replace the 2000 Cotonou accord with African, Caribbean and Pacific countries will begin in the coming weeks, with EU and African leaders far apart on how to tackle migration policy.

Despite the protestations of EU leaders – at a meeting with his African Union counterpart Moussa Faki Mahamat in May, European Commission chief Jean-Claude Juncker stressed that “co-operation with Africa goes far beyond migration,” and was “a partnership between equals” – few observers really believe that.

The European Commission’s mantra is that the bloc’s recently established investment vehicles – the European External Investment Fund and Africa Trust Fund – intended for the African market will “tackle the root causes of migration”.

Finalised back in 2000, when migration did not scare European leaders, migration control forms only a minor part of the Cotonou pact. The agreement does include provisions requiring African countries to take back illegal migrants, but they have never been tested.

The only functioning migrant return agreement that the EU has with

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an African country is with Cape Verde, an island with a population of just over 500,000.

“Migration plays a relatively minor role (in the current Cotonou accord),” said Carlos Lopes, the African Union’s High Representative on the post-Cotonou talks. However, he added that “for Africa, it is important not to have a multitude of tracks” on the matter.

“The paradox in the debate in Europe is that immigration is the way they talk about Africa, even around the EU’s budget allocation, but the way the EU deals with Africa is very different in reality.”

But many European countries do not want immigration to remain a marginal point in the pact any longer.

“To the EU, the main priority is migration, security, economic growth, then development,” said one Brussels-based NGO leader involved in the talks.

The EU has already signalled its intention to prioritise migration control in the next pact, by conditioning future aid and financial investment on African countries doing far more to control their borders.

“The EU’s new partnership with Africa must do more with migration [policy],” said Koen Vervaeke, managing director for Africa at the European External Action Service (EEAS), at a meeting at the Chatham House think tank in March.

Such is the preoccupation of EU countries with migration control that the bloc’s negotiating mandate on the successor to Cotonou was only agreed in late June after being held up for several months by a small group of member states led by Hungary and Poland.

The two Visegrad countries, which have been blocking any EU-wide quotas for resettling migrants from North Africa for the past two years, want the chapter in Cotonou covering readmission of would-be migrants from the ACP who are not granted leave to remain in Europe to be substantially toughened up.

In return for doing more to take back illegal migrants, EU officials are dangling the promise of easing the legal mechanisms for African migrants to legally move to Europe.

At the June European Council summit, the communiqué agreed by leaders talked about the need to ‘explore the concept of regional disembarkation centres.’

However, the idea of migration ‘platforms’ being hosted on African soil has so far been roundly rejected.

Morocco led the rejection of the platform concept at an African Union summit on 2 July, just days after EU leaders agreed to pursue the idea.

“It is an easy, counterproductive solution,” said Morocco’s Foreign Minister, Nasser Bourita. Instead, African leaders agreed to set up an African Observatory for Migration and Development (OAMD), which will be based in Rabat, and will focus on “harmonising the national strategies of African states and improving interaction with partners”.

However, if African leaders have so far refused to host the new centres, Faki said that the continent bore its own responsibility for the migration crisis, condemning what he described as ‘intolerable actions’ committed against African migrants on their own continent. Those words are yet to be matched by concrete actions by governments.

With more than three years of EU-African summits having produced little in the way of agreement on migration, there are few signs of the impasse being overcome inside the next 18 months of negotiations. But that would be unlikely to completely derail EU-ACP relations.

A ‘no deal’ on migration could prevent a successor to Cotonou being agreed, but wouldn’t throw out the baby with the bath water.

“Cotonou has the potential to be extended,” said Lopes.

“T would say there is no risk of no deal. It is not like Brexit. If we don’t have an agreement by 2020 then we will extend what we already have.”
Increasing trade between the EU and the ACP (African-Caribbean-Pacific), particularly African countries, lay at the heart of the ambition of the Cotonou Agreement. That was supposed to be embodied by regional Economic Partnership Agreements (EPA) with the EU.

But it has not worked out that way. Eight percent of EU exports and less than 7% of EU imports came to and from Africa in 2016.

Slow to be negotiated, in large part because many African regional blocs felt the European Commission was pushing them to open up access to their markets to European firms, only one EPA has been successfully ratified, with the six-member Southern African Development Community (SADC).

**NO WAY, EPA**

The sense that African countries won’t allow themselves to be pushed around by the EU on trade is held by Carlos Lopes, appointed in July as the African Union’s High Representative on the post-Cotonou talks.

“The reality is clear that the EPAs were badly negotiated and apart from the SADC, most of them are not implemented,” he told EURACTIV.

He added that the deadlines attached to agreeing and ratifying the EPAs were “artificial to give an impression that they were the only way to get access to the European market.”

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Many African countries can already trade largely duty-free with the EU as ‘least favoured nations’ and felt that the EPAs offered them little. Tanzanian officials have described the proposed EU EPA with the East African Community as “skewed and exploitative”, and such views are shared by a number of governments.

At a G20 meeting in Berlin last June, German Chancellor Angela Merkel called for a number of the regional EPAs to be re-opened, while her development minister Gerd Muller called in July for all EU imports from Africa to be tariff-free.

In the meantime, the recent push by African countries towards an African Continental Free Trade Area (ACFTA) is also redrawing the international trade map, and African leaders believe that they will negotiate the successor to Cotonou and, potentially, the EPAs, from a position of much greater strength.

Forty-nine out of 54 African countries have signed the ACFTA and Lopes is confident that all bar isolationist Eritrea will have signed up to it by January 2019.

“There is a political push in Africa for the continental free trade area to be the main instrument through which to conduct trade with Europe,” Lopes said and added that it would be “very much in the interest of the EU to do this”.

“Europe is the number one trading partner as a bloc but its position has been eroded,” he said.

“Contrary to perceptions, Africa is not a minor partner when it comes to trade with Europe. We are the third largest partner with the EU after the US and China. The African Union recognises that we are stronger when we negotiate as one voice.”

Meanwhile, Britain’s pending exit from the EU, and the UK government’s publicised wish to strike its own trade pacts with Commonwealth countries, also increases the prospects of fragmentation.

For the moment, the UK is not in a position to offer substantive trade talks but has promised that it will continue to offer ‘duty-free-quota-free access to the UK market’ for countries classified as ‘least developed’, alongside a ‘unilateral trade preference scheme’ that could potentially outflank the EPAs.

**MITUMBA BAN**

But it is not just the EU with whom African countries are becoming assertive. In July, Rwanda was suspended by the United States from the African Growth and Opportunity Act, a law signed by George W. Bush in 2000, the same year as Cotonou. AGOA, which offers duty-free access to the US market for about 7,000 products, has been the US’s flag-ship trade bill with Africa for nearly two decades.

In 2017, the six-country East African Community sought to impose tariffs on imported second-hand clothing and shoes, on the grounds that they wanted to build up domestic textiles markets.

A petition by the US Secondary Materials and Recycled Textiles Association to the US Trade Representative led to a US ultimatum to the six countries – axe the so-called ‘mitumba ban’ or face exclusion from AGOA.

Kenya, which is the region’s largest trader with the US and EU, was the first to back down from the tariffs. Rwanda, however, has refused to blink and has accepted that it will not be allowed to export its clothing to the US – 3% of its total exports to the US.

The Rwandan government estimates that it can create 25,000 jobs locally by phasing out clothing imports.

Alvin Mosioma, executive director of Tax Justice Network, Africa, told EURACTIV that while tax will not be a central issue to the post-Cotonou process, any attempt to curb the right of countries to impose tariffs should be resisted.

“Limiting countries’ ability to impose particular tariffs or taxes to promote their own manufacturing is a huge problem,” he said, pointing out that import taxation accounts for around 11% of government revenue across the continent.

**DIVIDE AND RULE**

The prospect of competing trade offers from the EU, US and UK – not to mention China’s huge economic activities in sub-Saharan Africa – could encourage Africa to adopt a ‘divide and rule’ approach.

“The EU, unsurprisingly, cautions against such tactics.

“T’m not sure it will be the best option for these countries to play off the US, Europe and China against each other,” a Commission official told EURACTIV.
When it comes to increasing investment in the African, Caribbean and Pacific countries covered by the Cotonou Agreement, the EU talks a good game. But it is facing stiff competition from China, armed with more cash and fewer concerns about democracy and the rule of law when it comes to investment.

The recently established Trust Fund for Africa and the soon-to-be-expanded European External Investment Plan are the EU’s latest Africa-focused investment vehicles. The EIP was launched in autumn 2016 and the Commission says it will generate more than €44 billion of investments by 2020.

The European Investment Bank is set to have a major role in coordinating the EU’s expanding investment remit. The EIB’s investment in projects in East Africa in 2017 totalled €400 million. That was a good year, said the bank’s bureau chief for the region, Catherine Collin.

“The Cotonou mandate has a very strong focus on private sector development. To have growth you need a port that functions, you need energy supply, so it is normal that we are still focusing on those traditional infrastructure projects,” Catherine Collin tells EURACTIV.

“On the other hand, we have been given a mandate and the instruments to develop the private sector...and in this region there is potential,” says...
The scope of this mandate is broad enough to include access to local currency loans for small businesses; regional private equity funds – including funds investing in microfinance and local mid-cap enterprises; and subordinated bank capital to banks in the region.

Around half of the EIB-backed lending in Africa supports private sector investment by small and medium-sized businesses each year.

But the EU’s various investment vehicles all come with political agendas. The EIP and Trust Fund are focused on long-term migration control. Increasing energy capacity and agricultural industrialization are other key goals to the EU.

Those agendas are not going to disappear in a post-Cotonou agreement and, if anything, will be expanded. The European Commission’s negotiating mandate for the post-Cotonou talks seeks to increase the levels of conditionality and sanctions for governments with poor human rights records.

This would mean that no funds would be allocated to states violating human rights, with the repayment of funds to be demanded if a severe violation of human rights is established.

**CHINA’S INVESTMENT OFFENSIVE COMES WITH DIFFERENT STRINGS ATTACHED**

China does not have the EU’s cash restraints or agendas, and the sums involved in Chinese investment on the African continent dwarfed those offered by Europe. At the start of a two-day China-Africa summit on Monday (3 September), President XI pledged $60 billion (£51.6 billion) in new development financing. The summit focused on the Belt and Road Initiative, a major Chinese project which reaches into the African continent.

China may be investing lavishly, but its projects often come with strings attached, mostly in the form of loans from Chinese banks. China is already facing increasing criticism for its debt-heavy approach to investment. The likes of Zambia and Congo-Brazzaville have saddled themselves with soaring debt to GDP burdens, in large part because of taking on large Chinese-financed infrastructure projects.

But the fact that China’s cash comes with no political conditions, compared to the financing from the EU, the IMF, World Bank and other development finance institutions, as well as the size of the sums involved, make it attractive to African governments.

Anxious not to be left behind, but without the taxpayer-funded resources to rival China’s largesse, several EU countries have launched their own initiatives.

Outlining its plans for a ‘Marshall Plan for Africa’ at the G20 last year, the German government called on European countries to ramp up public and private sector investment in the continent.

“We cannot leave Africa to the Chinese, Russians, and Turks,’ Development minister Gerd Müller said, pointing out that only about 1,000 German firms currently did business in Africa.

The UK is also stepping up its investment, quadrupling the funding of its African and Asian investment arm, the Commonwealth Development Corporation (CDC), from £1.5 billion (£1.7) to £6 billion (£7 billion), with a mandate to focus on the poorest, riskiest investment climates. The CDC is in the process of setting up shop in Nairobi, making it the latest addition to the network of European and international development finance institutions in the Kenyan capital.

But many in Africa feel like that they have heard it all before.

“Many nations have declared ‘years for Africa’ but at the end of the year it ends only with policies on paper”, says Shehu Sani, Chairman of Nigeria’s Senate Committee on Local & Foreign Debts.

Unless Europe is able to match its promises with hard cash, its leaders should not be surprised if African leaders continue their pivot towards China.