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**Is the EU's governance 'good'?:
An assessment of EU governance in its partnership with ACP States**

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Abstract

Distinguishing between '(good) governance' as a process and an outcome, this paper examines both the processes and outcomes of governance in the context of the EU's relationship with ACP States within the period of the Cotonou Agreement (CA). It discusses and assesses a variety of governance mechanisms, including the European Commission's use of the governance concept, EPAs, manifestations of partner preferences, the EDF, the revision of the CA, and Fisheries Partnership Agreements. Specific examples of the wielding of each mechanism are assessed based upon two criteria: a) the extent to which the wielding of the mechanism by the EU is a manifestation of "good governance", and b) the extent to which the EU's wielding of the mechanism has resulted, or is likely to result, in the sustainable development of and reduction of poverty in ACP countries. The examples are chosen to illustrate contradictions between rhetoric and practice and the consequential negative (actual and potential) impact upon development in ACP States. The final section offers suggestions for improving the EU's governance processes and their outcomes for development.

Key Words: Governance; Development Cooperation; European Union; ACP Group; Sustainable Development; Good Governance; Partnership

¹ The views expressed in this paper are those of the authors. They do not necessarily reflect the views of the UN, UNU, UNU-CRIS or the ACP Group of States.

Is the EU's governance 'good'?: An assessment of EU governance in its partnership with ACP States

The purpose of this paper is to examine the forms of governance being promoted and exhibited by the European Union (EU)² in its relationship with the African, Caribbean and Pacific (ACP) Group of States within the framework of the Cotonou Agreement (CA) (2000 – 2020). The paper will further distinguish between forms of governance promoted rhetorically versus those manifested in practice. The purpose of the comparison is a twofold evaluation: first, the paper evaluates the extent to which the concept of 'good governance', as promoted by the EU, is applied by the EU within the context of its relationship with ACP States. Second, the paper evaluates the extent to which governance strategies displayed by the EU promote sustainable development and the alleviation of extreme poverty in ACP States. It is posited that, like most other donor agencies, the EU does not clearly articulate the objectives of its governance agenda, and acts in such a way that its processes of governance and their outcomes fail to fulfil the criteria for good governance that it sets for others.

The paper first introduces the ACP Group, and the EU bodies that are relevant to its relationship with ACP States. We then briefly discuss key concepts that structure the ACP – EU relationship including governance, development, partnership and power. Next, various governance instruments employed by the EU in its relationship with the ACP States are identified. Examples of each instrument are discussed and assessed based upon two criteria: a) the extent to which the wielding of the mechanism by the EU is a manifestation of "good governance", and b) the extent to which the EU's wielding of the mechanism has resulted, or is likely to result, in the sustainable development of and reduction of poverty in ACP countries. The final section summarizes the assessment and offers recommendation for improving consistency between the governance that the EU applies in its relations with ACP States and the governance it alleges to promote through its development cooperation with them.

² Unless otherwise stated, the acronym EU will be used throughout the remainder of the paper, also when referring to the earlier European Economic Community (EEC) and the present European Community (EC).

The Actors

ACP Group

The ACP Group of States is constituted by 79 developing countries, all but one (Cuba) of which have signed the CA, which officiates the relationship between the ACP Group and the EU. The Group's founding statute is the Georgetown Agreement (signed on 06 June 1975), and it has a permanent Secretariat, which is based in Brussels, Belgium. The Summit of ACP Heads of State and Government is the supreme organ of the Group, whilst the ACP Council of Ministers is the Group's main decision-making body. The Council is assisted by a Brussels-based ACP Committee of Ambassadors in the execution of its tasks. The Group is structured into six regions: the Caribbean, the Pacific, West Africa, Central Africa, East Africa and Southern Africa (Bradley, 2004).

Relevant EU Bodies

The European Commission comprises a number of services that have a direct influence on ACP-EC relations, including 'DG Development and Relations with African, Caribbean and Pacific States', responsible for development policy; 'DG External Cooperation Programmes' (EuropeAid), responsible for the implementation of development programmes and projects; 'DG Relex', responsible for external relations; 'DG Trade'; and 'ECHO', responsible for humanitarian aid. These services operate in a semi-autonomous fashion and have different interpretations of the objectives enshrined in the EU Development Consensus (ECDPM and ActionAid, unpublished discussion note). In addition, most of the 27 EU Member States possess national development policies and instruments.

Governance

The word 'governance' derives from a Greek work that means 'to steer'. Academics from diverse disciplinary backgrounds have elaborated upon the 'steering' concept. Kooiman (1993: 2) concurs with the work of Rosenau (1992) in defining governance as 'all those activities of social, political and administrative actors that can be seen as purposeful efforts to guide, steer, control or manage societies'. Rosenau (1995: 14) elaborates that governance encompasses the activities of government as well as 'many other channels through which commands flow, and includes framing goals, issuing directives, pursuing policies and changing norms. Smouts (1998) emphasizes governance

as a process that necessitates continual interaction and Finkelstein (1995) highlights the role of ‘purposive actors’ in this process. Similarly, the definition of governance proposed by Mayntz (2004: 66, in Draude 2007: 4) as ‘forms of collective regulation of social circumstances’³ and that of Lange and Schimank (2004: 19, in Draude 2007: 6) as ‘patterns of regulating interdependence’⁴ accent the mutual influence of all concerned actors in a holistic manner on each other in the direction of their affairs.

Within a policy context, in a Communication in 2003, the EC (2003: paragraph 4) describes governance as ‘the rules, processes, and behaviour by which interests are articulated, resources are managed, and power is exercised in society’. It further specifies that ‘the way public functions are carried out, public resources are managed and public regulatory powers are exercised is the major issue to be addressed in that context’, and that ‘governance concerns the state’s ability to serve the citizens’.

The above definitions offered by academics and policymakers all focus on governance as a process, leaving the goals and outcomes of these processes unspecified. In contrast, a definition of governance emanating from the World Bank directly incorporates development as a goal of governance and thereby stipulates not only what governance is as a process, but also what the *outcome* of those processes *should* be. In defining governance as ‘the manner in which power is exercised in the management of a country’s economic and social resources for development’ (World Bank, 1992: 1), the World Bank explicitly makes a normative statement. However, even when not made explicit, assertions about governance often carry a covert idea about what the ends of governance processes should be.

*Good Governance*⁵

The ‘good’ in ‘good governance’ has been employed sometimes as an adverb, to evaluate the process of governance; in other instances it is used as an adjective, to evaluate the outcomes of this process. For example, the United Nations Commission on Human Rights (UNHCHR, 2008) identifies the key attributes of ‘good governance’ as: transparency, responsibility, accountability, participation, and responsiveness (to the

³ Authors translation from German. In original: ‘aller nebeneinander bestehenden Formen der kollektiven Regelung gesellschaftlicher Sachverhalte’.

⁴ Authors translation from German. In original: ‘Muster der Interdependenzbewältigung’.

⁵ See Carbone, this volume, for a more extensive history of the term’s use in development cooperation.

needs of the people). Thus, in this conception the normative evaluation ‘good’ addresses the *processes* of governance, not its outcomes. Orienting more toward the *outcomes* of governance, UN Resolution 2000/64 expressly links good governance to ‘prompting growth and sustainable human development’ (UNHCHR, 2008). Mr. Kofi Annan, Secretary-General of the United Nations stated in 1997 that, ‘Good governance and sustainable development are indivisible’ (Annan, 1997). The CA defines good governance as

the transparent and accountable management of human, natural, economic and financial resources for the purpose of equitable and sustainable development. It entails clear decision-making procedures at the level of public authorities, transparent and accountable institutions, the primacy of the rule of law in the management of resources and capacity building for elaborating and implementing measures aiming in particular to preventing and combating corruption (Art. 9.3).

Here, the evaluation ‘good’ captures both the process of governance (‘management’) and the (intended) outcome of governance, which is specified as ‘equitable and sustainable development’.⁶

Poor or Malign Governance

A lack of good governance might be called ‘poor’ or ‘bad’ governance. As with its counterpart, an unfavourable evaluation of governance can either describe the process or the outcomes of governance. Bad governance – or more adeptly: ‘poorly governed’ – can describe opaque (as opposed to transparent) management, a lack of clearly defined rules and procedures, or a failure to implement such rules and procedures (e.g. not being accountable to the defined rules and procedures). However, opacity and ad-hoc decision making may or may not result in deprivation or lack of choice (outcomes). On the other hand, ‘bad’ can evaluate the outcomes of governance and be understood as management of human, natural, economic and financial resources that contributes to or entrenches deprivation.⁷

Development

⁶ Equality, or rather inequality, has lately received much attention from development economists. See, for example, Jolly (2007), Noorbakhsh (2007), Stewart (2008) and Uslaner (2007).

⁷ ‘Deprivation’ is used to connote the opposite of development and is elaborated below.

The EU's theoretical understanding of the concept 'development' is captured in the European Consensus on Development (EC, 2006a) that was adopted in 2006.⁸ The Consensus is grounded on the principle of sustainable, equitable and participatory human and social development, and it emphasises the promotion of human rights, democracy, rule of law and good governance. Similarly, the CA underscores economic, social and cultural facets of development, which clearly concurs with a broad conception of human development that encompasses reducing 'deprivation' as well as broadening choice (Nafziger, 2007; Sen, 1999; Thorbecke, 2007).

As discussed by Hout (this volume) and Carbone (this volume), governance is a concept that has come to play a very present role in discussions about sustainable development. Montagner (2006) discusses three ways in which the term governance has been used in the context of the EU's development politics. These include governance applied to the European space and to Community politics, (good) governance within partner countries of the EU, and governance at the heart of the 'organisational field' of civil society. More recently some attention has been given to 'aid governance', whereby donors have been under pressure to apply governance principles in their management of their aid to developing countries (Ceuppens, 2006). The present study is interested not only in the governance of aid, but all aspects of governance within the context of the ACP-EU 'partnership'.

Partnership and Power

According to Webster's unabridged encyclopaedic dictionary, a 'partnership' is 'the state or condition of being a partner; participation; association; joint interest'. The partnership principle has been introduced in the context of contemporary development cooperation to suggest an evolution from the traditional vertical relation between the donor and recipient to a relationship characterized by cooperation between equals. For example, in describing 'good governance', UN Resolution 2000/64 recognizes 'the value of partnership approaches to development cooperation and the inappropriateness of prescriptive approaches' (UNHCHR, 2008).

⁸ Carbone, this volume, discusses this document and the history of the EC's use of the development concept.

On 23 June 2000 in Cotonou, the EU signed a Partnership Agreement with the ACP Group of States (EU, 2000). The resulting ACP – EU Partnership Agreement (CA) was heralded as the ‘most advanced and comprehensive development cooperation agreement between the North and the South’ by the then EU Commissioner for Development and Humanitarian Aid, Mr. Poul Nielson, who also specified that ‘partnership goes hand-in-hand with ownership and mutual confidence’ (Courier, 2000: 3). In addition, at the second EU-Africa Summit in 2007, an Africa-EU Strategic Partnership was endorsed to formalise a partnership based on the principals of equality, partnership and ownership to guide future cooperation (African Union, 2007). As suggested in the definition, a partnership is generally not an end in itself, but a means to achieve common objectives. The objectives of the ACP - EU partnership, as stipulated in the CA (Part I, Title I, Chapter I, Article 1), are:

to promote and expedite the economic, cultural and social development of the ACP States, with a view to contributing to peace and security and to promoting a stable and democratic political environment. The partnership shall be centred on the objective of reducing and eventually eradicating poverty consistent with the objectives of sustainable development and the gradual integration of the ACP countries into the world economy.

In studying governance, Yanakopoulos (2005) argues the importance of studying the actors, their relationships and the quality of these relationships, emphasizing the role of power asymmetries in relationships between actors. This and other authors have particularly underscored the power asymmetries between the ‘North’ and ‘South’ A BOND (2006) briefing paper argues that although ‘donors prefer to focus the governance lens more narrowly within the confines of recipient countries, this distorts understanding of the ways in which global power structures impact on national politics’ (p. 2). The power differential between donor and developing countries in turn influences development, as noted by Birdsall (2007: 242), who writes that ‘...the powerful make and implement the rules, as the limited access of developing countries to certain rich-country markets suggest[s].’ As global power structures have an important impact on ACP national and regional politics, an understanding of governance processes and outcomes can only be gained by considering these power structures.

Power asymmetries infiltrate all aspects of the ACP-EU partnership, including provisions designed to govern the relationship. An examination of the use of one of the provisions for political dialogue between the ACP and the EU illuminates the actual – in contrast to the rhetorical – distribution of power. In its Communication on Governance and Development, the EC (2003) discusses the modalities in the CA that provide for ‘consultation procedures’ within the context of ‘policy dialogue’, which is seen as a key element of good governance. The Communication refers to Article 9 of the CA, which specifies that respect for human rights, democratic principles and the rule of law constitute ‘essential elements’ of the partnership and that good governance is its ‘fundamental element’.⁹ Article 96 of the CA

foresees that in cases of violation of one of [the] essential elements one party can invite the other party to hold consultations.... Consultations under Article 96 aim at examining the situation with a view to finding a solution acceptable to both parties. If no solution is found, or in emergency cases, or if one party refuses the consultations, appropriate measures can be taken (paragraph 27).

Although this provision is phrased to allow either party could invoke it, only the EU has ever done so, reflecting the division of power within the relationship. All 14 cases to date in which consultations were undertaken in accordance with Article 96 were subsequent to alleged violations by ACP States. The manner in which these consultations have been conducted, and the imposition of commitments on the country in question, have led ACP Heads of State and Government to include in ACP Summit Declarations an appeal to the EU to avoid recourse to unilateral measures (ACP Secretariat, 3rd, 4th, and 5th Summits of ACP Heads of State and Government, 2002, 2004, 2006). Despite many apparent violations that could be framed under Articles 96 and 97 of the CA, the ACP Group has never called the EU for consultations. Examples include the violation of the human rights of ACP immigrants in EU Member States¹⁰, the shipping of toxic waste on EU registered ships, and cases of fraud and corruption at EU institutions and in EU Member States. It could be argued that the provision to allow either of the parties to the CA to call

⁹ See Carbone, this volume.

¹⁰ For a critical report on EU treatment of ACP migrants, see ACP – EU JPA Bureau (2007) Draft Report on the Joint Mission of the JPA to Malta and the Canary Islands (Spain) 29 October to 3 November 2006. Brussels, 15 February 2007.

for consultations is in fact misleading, since the ACP Group does not have the means to impose ‘appropriate measures’ as defined in Article 96.

The imbalance of power between the partners trickles down to many other manifestations, including the extent to which joint ‘fact finding missions’ are deployed to political ‘hot spots’ by the ACP-EU Joint Parliamentary Assembly (JPA). The EU can use development aid, trade preferences and other ‘carrots’ to push its agenda and interests, and the (threat of) withdrawal of these as ‘sticks’. The ability to distribute these resources affords the EU with a considerable degree of ‘power’, and the exercise of that power is governance, in accordance with the definition by the EC (2003) cited above. While access to resources gives the possessor *potential* power, it can also be argued that aid recipient countries grant the EU this power by allowing the resources that the EU has at its disposal to be used as leverage. If aid recipients were to decline the aid, either categorically or under specific circumstances, these elements of ‘power’ would dissipate. In other words, it is the recipients’ desire for these resources, and willingness to be manipulated in order to access them, that turns the potential power into real power.

Governance Mechanisms and Governance Assessments

Distinguishing governance as a purposive activity from governance as an explanatory tool (for example to explain development policy failures), Yanakopoulos (2005) investigates the mechanisms through which governance as a purposive activity occurs. Here we will examine governance mechanisms used by the EU in the context of its relationship with the ACP Group. According to the CA and other policy papers, in its relations with ACP States the EU employs, *inter alia*, the following instruments to promote good governance in development cooperation: conditionalities,¹¹ ‘additional support’ for results-oriented reforms, incentives, and ‘appropriate measures’ (sanctions) as specified in Articles 96 and 97 of the CA. However, it can be argued that EU governance is manifested through additional practices, which include: the determination of priority areas and recipients to benefit from financial assistance; negotiation strategies, such as stipulations for the configuration of negotiation partners and linking financial perspectives with certain policy orientations; the identification of interlocutors as

¹¹ While the CA refers to ‘conditionalities’, later policy documents declare an attempt to move away from their use.

development partners; trade and commercial practices within development cooperation, such as Economic Partnership Agreements (EPAs); Fisheries Partnership Agreements (FPAs) and subsidies; and the design of other policies that influence the EU-ACP relationship¹².

In the following section, we will examine a variety of EU instruments and practices that in fact are governance mechanisms. These governance mechanisms will be assessed with regard to: 1) whether the way in which they are wielded exemplifies ‘good governance’ as a process and 2) whether these processes have or are likely to result in ‘good governance’ as an outcome, particularly sustainable development and poverty reduction. The examples presented here are chosen for their capacity to illustrate contradictions and undesirable consequences. Thus, we critically highlight examples of bad governance rather than offering a representative sample of governance mechanisms and their use. There are certainly many examples of good governance practices by the EU in its relations with the ACP Group, but our aim is to target the areas that can be improved. Concrete suggestions for improvement are discussed in the final section of the paper.

Wielding the ‘Governance’ Concept

The first mechanism we will examine is use of the concept of ‘(good) governance’. Adding adjectives such as ‘bad’ or ‘good’ to governance, and specifying a desired outcome of governance processes, such as sustainable development, makes more explicit the normative aspect inherent to the concept’s use. However, whether or not certain outcomes of governance processes are included explicitly or only presumed implicitly when the concept is employed, it has been argued that mere use of the concept has been an act of governance. This notion is expressed by Campbell (2006: 4):

In spite of the use of administrative language formulated in terms of efficiency and good management, put forward as neutral, as if to address essentially technical issues, the notion of governance as proposed by the multilateral financial institutions entails a particular concept of the state, of its role, of its desirable evolution, of state-market relations, of the exercise of power and of a

¹² For example, policy changes outlined in the Lisbon Treaty are likely to significantly influence the EU’s relationship with the ACP Group.

particular political project. In this sense, the notion of governance may be shown to be eminently political.

Campbell accuses such institutions of lacking transparency in their use of the concept of governance because they obscure its ‘political’ dimension in portraying it as merely technical.

Various authors have argued that the EU has imposed its own models for governing and other priorities under the rubric of promoting ‘good governance’ (Montagner 2006). This is evident in the EU’s Governance Initiative for ACP States and the associated ‘governance incentive tranche’¹³, developed in 2007. The governance incentive tranche is an instrument for providing supplementary funding to states who credibly commit themselves to satisfactory governance reforms. To this end, the ‘governance profile’ is an analytical tool that provides an overview of nine areas of governance¹⁴ and assists in identifying main weaknesses and reform priorities. It is not jointly developed with the country in question, nor are its contents fully shared. Rather, based upon the EU’s assessment of the country’s ‘governance profile’, the country is encouraged to provide ‘relevant, ambitious and credible commitments to reform’ (EC, 2009: 6) in its ‘Governance Action Plan’ (GAP). The amount of the ‘incentive tranche’ is uni-laterally determined by the EC, and this ‘additional support’ is utilised to effectuate the reforms stipulated in the GAP. Thus, the introduction of the ‘governance incentive tranche’¹⁵ and the procedure through which it is allocated manifest a kind of ex-ante rather than ex-post conditionality. BOND (2006) argues that,

although not presented in this way, [governance criteria and] assessment mechanisms involve political processes driven by donor government interests. They lack transparency and fail to explicitly acknowledge the value-laden assumptions, and their selective application, regarding models of ‘good

¹³ The tranche is allocated and disbursed as ‘additional resources’ to the initial country allocation. See EC (2009). See Molenaers and Nijs (2009) and Carbone (this volume) for assessments of the tranche.

¹⁴ (1) Political governance: human rights, fundamental freedoms, electoral process, constitutional democracy; (2) The rule of law: judicial and law enforcement system; (3) Control of corruption; (4) Government effectiveness: institutional capacity, public finance management; (5) Economic governance: private-sector/market-friendly policies, management of natural resources; (6) Internal and external security; (7) Social governance: decent work, gender, HIV/AIDS; (8) international and regional context: regional integration, involvement in regional initiatives, migration; (9) Quality of the partnership: political and programming dialogue

¹⁵ Euro 2,7 billion allocation under the 10th EDF (2008 – 2013)

governance'. In this regard, they mark a regressive shift away from the more explicit focus and at least policy level commitment to quality assurance of process and not product. The use of 'governance' assessments, either to justify or hold back development assistance is inherently 'anti-developmental' and undermines good governance.

The EU's use of the concept 'good governance' is exemplified in its failure to distinguish between 'good' and 'democratic' governance and by the elements subsumed under these rubrics. In various EC documents (EC, 2006a; EC, 2009: 3 - 4¹⁶), the phrases '*good* governance' and '*democratic* governance' are used interchangeably. For example, in its Communication on Governance in the European Consensus on Development, the EC (2006a) states that '*good* governance, though a complementary objective, is basically a means towards the ends represented by poverty reduction and the other MDGs'. The document specifies that aspects of '*democratic* governance' include:

the affirmation of the rights of citizens on the road to sustainable development and respect of human rights and fundamental freedoms (including freedom of expression, information and association); support for democratisation processes and the involvement of citizens in choosing and overseeing those who govern them; respect for the rule of law and access for all to an independent justice system; access to information; a government that governs transparently and is accountable to the relevant institutions and to the electorate; human security; management of migration flows; effective institutions, access to basic social services, sustainable management of natural and energy resources and of the environment, and the promotion of sustainable economic growth and social cohesion in a climate conducive to private investment (Section 1.1).

The failure to distinguish between 'good' and 'democratic' allows one issue to be guised in the rubric of another. For example, it can be argued that 'access to basic social services' and 'management of migration flows' have nothing to do with '*democratic* governance' but have a lot to do with '*good* governance'. Ironically, an earlier EC

¹⁶ EC Staff Working paper on 'Supporting democratic governance through the governance initiative: A review and the way forward'

Communication on Governance and Development (EC, 2003) clearly makes this distinction in stating:

Governance concerns the state's ability to serve the citizens. Such a broad approach allows conceptually to disaggregate governance and other topics such as human rights, democracy or corruption.

By framing a laundry list of its own priorities as aspects of 'good governance', and designing mechanisms purportedly to evaluate countries' achievements at attaining this 'goodness', the EU attempts to establish a particular set of social norms and conventions to guide the decisions and actions of its developing partners. In concurrence, BOND (2006) points out that

some of the indicators in the 'governance profiles' have little to do with a government's ability to act in the interests of the country's citizens and of poverty eradication, and are more to do with EU interests – for example what the EU thinks the government should do to stem migration, or to create an 'investment-friendly' climate.

Various NGOs have established a divergence between the governance priorities outlined by the EU and the priorities expressed by NGOs in aid-recipient countries (CIDSE, 2006). CONCORD (2007) cites an example of a case in which the EU imposed its priorities over those of an aid recipient country under the auspices of promoting 'good governance':

In Zambia, the government has chosen to prioritise Health and Education as priority sectors for EC Aid. But the EU has rejected these priorities while imposing unclear and dubious priorities such as governance and competitiveness. By doing so, Brussels clearly disrespects Zambia's sovereignty. It is particularly severe as it concerns a country, like others in the Southern Africa region, which is highly hit by HIV/AIDS, that is destroying its fragile basic social system.

Ironically, CIDSE (Coopération Internationale pour le Développement et la Solidarité) (2006) has also argued that even the EC's process of defining and setting the criteria for 'governance' failed to adhere to its own criteria for good governance. Although the Issues Paper released by the EC claims that the EC approach is process

oriented, broad, inclusive and in particular facilitates civil society participation, CIDSE sees ‘grave contradictions between EC’s definition and principles of governance and its own actions in this field’ (p. 3).¹⁷

Hidden under the guise of the rubrics ‘good governance’ and ‘incentives’, the EU continues to coerce development partners to follow EU positions and policies. Contrary to the criteria of good governance as a process, this process lacks transparency and results in a lack of ownership on behalf of the countries targeted by the policies. Furthermore, the outcome of this governance may also be less than ‘good’, since priorities are set that are not necessarily in the best interest of the developing country, as exemplified in the case of Zambia.

Economic Partnership Agreements (EPAs)

The CA stipulates that EPAs¹⁸ would be negotiated in order to better integrate the ACP States into the global economy, promote sustainable development and eradicate poverty in these countries. Both the content of these agreements – which was still being negotiated when this article was penned – as well as the process of negotiations can be seen as mechanisms of governance.

The EPA negotiation process was to a great extent stipulated by the EU, by some accounts, against the will – and interests – of the ACP States. First, the EU stipulated that EPAs were to be concluded not with the ACP Group as a whole, but with six regions within the ACP Group. Furthermore, no country could negotiate within more than one region. Since some countries in Africa are members of more than one regional organisation, they were forced to choose between these groupings. The resulting negotiating groups coincide neither with the six regions of the ACP Group, nor with the membership patterns of the regional organisations. In other words, new regional groupings were formed on the basis of countries’ interests for the purpose of negotiating EPAs with the EU. The ACP Group has expressed concern that the pre-existing regional integration processes have been stalled due to the focus placed upon the new alignments for EPAs negotiations – in spite of the fact that supporting *existing* regional integration

¹⁷ Also see Carbone, this volume, for a discussion of CIDSE’s critique.

¹⁸ The Cotonou Agreement stipulates that the Parties will conclude new World Trade Organization (WTO)-compatible trading arrangements by 2008. EPAs are meant to be free trade agreements, that will end the non-reciprocal and preferential trade arrangements between the EU and ACP States, which are incompatible with WTO rules.

efforts is allegedly a main goal of these agreements (ACP Secretariat, 2009). Bilal and Stevens (2009) have underscored the dangers to African regional integration efforts posed by the signing of 'interim' EPAs by some, but not all, members of the African negotiating groups, which precisely described the state of affairs when this article went to press. These authors describe one of the challenges that EPAs pose for African regional integration:

A common perception, expressed by many countries, is that there is little coherence between the EPA agenda and the regional integration processes in Africa. One particular concern has been that countries in the same economic region might liberalise different baskets of products and so create new barriers to intra-regional trade in order to avoid trade deflection. This concern has been vindicated by the interim EPAs that have been agreed (Bilal and Stevens, 2009: 4).

Thus, the EU's stipulations for negotiations and the content of interim EPAs have impacted the geopolitical structure of African regions of the ACP Group and threatened the existing regional integration processes.

By insisting on moving negotiations to the regional level, the EU finessed the possibility of more concerted action on behalf of the Group as an entity (Slocum-Bradley 2007). The regional negotiating groups are smaller and thus have less power to negotiate an agreement that favours the interest of the developing countries. Due to the EU's relative power and ability to assert its will, the developmental consequences of the still incomplete results of the regional negotiations have been a matter of great concern. In its 2009 Resolution, the ACP Council of Ministers underscored 'the absence of a comprehensive development oriented EPA' (ACP Secretariat, 2009: 1, 2 & 4). We now turn to examine the potential of the EPAs for promoting sustainable development and reducing poverty in ACP countries.

The reciprocal nature of EPAs, whereby the EU and ACP regions are supposed to open their markets to each other in a reciprocal fashion, have been underscored as problematic by various development-oriented committees and organizations (see, for example, Oxfam International, 2006). NGOs and the European Parliament's development committee have underscored the need for additional funds to assist developing countries

to adjust to the competition induced through market openness. Even European Commissioner for Trade, Peter Mandelson, has stated that ‘Trade will not promote development without parallel investment in the supply side’ (Mandelson, 2005). Mandelson’s acknowledgement is sustained and elaborated by scholars who argue that market openness can contribute to within country inequality, so ‘integration with the global economy is not a substitute for an anti-poverty strategy’ (Nissanke and Thorbecke, 2007: 258; also see Birdsall, 2007). Prerequisites for countries to benefit from globalization-induced growth are internal patterns of growth and specialization and forms of integration. Without these factors in place, ‘many low-income countries could be locked in an international poverty trap through integration’ (UNCTAD, 2002: 265).

In spite of widespread recognition that developing countries must first make various adjustments before they stand the potential to benefit from opening their markets, in the content of the interim EPAs, ‘no clear pattern can be identified that the poorer countries have longer to adjust than the richer ones or of the EPAs being tailored to development needs (however defined)’ (Bilal and Stevens, 2009: 3). In their assessment of the interim agreements, Bilal and Stevens (2009: 4) conclude that:

The picture that emerges is entirely consistent with the hypothesis that countries have a deal that reflects their negotiating skills and the EU’s interest: that countries able to negotiate hard, knowing their interests (which were not incompatible with those of the European Commission) have obtained a better deal than those lacking these characteristics.

Furthermore, the EC has refused requests for additional funding for adjustment programs that would allow the developing countries to take advantage of opportunities created through EPAs. For example, a letter signed by the EC’s Deputy Director for Trade, Karl Falkenberg, and the Director General for Development and Relations with African, Caribbean and Pacific States, Stefano Manservigi, rejected the Pacific region’s proposal that certain concessions on market access on their part be compensated by the EU with additional funding for adjustment costs (Oxfam International, 2006). In spite of the fact that the EC has repeatedly argued that adjustment funding will be provided through the EDF rather than the EPA, the 10th EDF allocates no additional funds for EPA-related adjustment costs. Bilal and Stevens (2009: 225) have stated that, ‘in terms

of predictable levels available for the years to come, one thing is clear: the EDF cannot be the only source of AfT (Aid for Trade)'. Oxfam International (2006: 5) concludes that, 'without funding for adjustment, an EPA cannot hope to provide a developmentally supportive framework in countries with limited capacities and resources'. Thus, as matters currently stand, EPAs are more likely to entrench rather than reduce poverty.¹⁹

Partner Preferences

In its dealings with the ACP countries, the EC has in recent years shown various signs of withdrawing from the ACP Group as an interlocutor (Slocum-Bradley, 2007). It has designed separate strategy papers for its relations with the Caribbean (EC, 2006b), the Pacific (EC, 2006c), South Africa (EC, 2006d), and 'Africa' (EC, 2005), and it later elaborated a 'joint strategy' with the latter (EC, 2007). Seemingly in contradiction to the EC's rationale for the latter strategy – that is, to have one common strategy for Africa, the EC has separate strategies for South Africa and for several northern African countries, which are addressed in the EC's European Neighbourhood Policy (ENP)²⁰. In a further manifestation of disfavour for the ACP Group, the former European Commissioner for Development and Humanitarian Aid, Louis Michel, publicly expressed a preference for working with the regions. The EC has granted high levels of support, financial and otherwise, to the African Union, often with only the reluctant and post-hoc approval of the ACP Group. These actions undermine the ACP Group and empower the actors favoured by the EC. This form of EU governance has a direct impact on the kinds of actors that are empowered to act on behalf of ACP interests and on development. One possibility is that this process will result in dissolution of the ACP Group as such. If this is the case, the full weight of the Group will be lost and only smaller groupings of developing countries will defend their interests in negotiations with the EU. This could result in less advantageous outcomes for sustainable development and poverty reduction in developing countries.²¹

European Development Fund (EDF)

¹⁹ See Bilal and Stevens (2009) for an extensive description and evaluation of the interim EPAs.

²⁰ According to the EC website, 'the European Neighbourhood Policy applies to the EU's immediate neighbours by land or sea – Algeria, Armenia, Azerbaijan, Belarus, Egypt, Georgia, Israel, Jordan, Lebanon, Libya, Moldova, Morocco, Occupied Palestinian Territory, Syria, Tunisia and Ukraine' (accessed 30 October 2009 at http://ec.europa.eu/world/enp/policy_en.htm). See EC (2004) for the full text of the ENP.

²¹ See Slocum-Bradley, 2007, for a more extensive discussion of the de-construction of the ACP Group.

The EDF²² is the main instrument for providing EU aid for development cooperation in ACP States, to be distributed as stipulated in country and regional strategies. In accordance with the CA, ‘ACP States and Regions shall determine the development strategies for their economies and societies in all sovereignty’ ...’ (Part 1, General provisions, Title 1, Chapter 1, Article 2). In practice, negotiations over the setting of development priorities in ACP countries and regions take place in an environment of ‘trade-offs’ between the aid recipients and the EU. The result of these negotiations is that the EU’s external priorities and commitments are pursued, whilst the ACP Group plays a minor role in the programming of EU financial resources. The EU’s *ability* to impose its agenda on ACP states and regions reflects the inequality of the partnership and the imbalance of power; the fact that it *does* so contradicts the CA stipulation that development strategies shall be determined ‘in all sovereignty’ by the regions and countries concerned. This contradiction reflects not only a lack of *transparency* in the agenda-setting process but also means that the EU is left entirely *unaccountable* for the consequences thereof. Both transparency and accountability are key aspects of good governance, as characterized by the EU itself. Furthermore, contrary to the *ownership* criterion of good governance, Bilal and Stevens (2009: 230) conclude that ‘EU donors’ procedures and practices are not conducive to full ownership’.

Revision of the Cotonou Agreement (CA)

The EU’s imposition of its agenda, and the inequality and power imbalance in the ACP – EU partnership, were also made glaringly evident during the negotiations for the 2005 revision of the CA. The negotiations reached an impasse on the EU’s insistence to include an article on ‘cooperation in countering the proliferation of weapons of mass destruction’ (Part 1, Title II, Article 11b), and the EU’s reluctance to provide details on the next multi-annual financial framework for the period 2008 – 2013 (10th EDF) (Annex 1b). To unblock the impasse, the EU negotiators offered the ACP Council of Ministers a so-called ‘package deal’, whereby a multi-annual financial framework would be provided on condition that the ACP group accept the inclusion of the proposed article. Due to the

²² The 10th EDF, to be dispersed during the period 2008 – 2013, amounts to € 22,682 million. This fund is divided between national and regional indicative programmes, intra-ACP programmes and projects, investment facilities, EU Overseas Countries and Territories (OCTs) and the European Commission itself (to cover expenditures for programming and implementation, such as its offices and staff in developing countries).

consequent inclusion of the article, ACP countries are now further burdened with border-control responsibilities, in order to prevent weapons trafficking, but they have been allocated no additional resources to cover the high cost of these imposed duties.

Consequently, in order to cover the costs of this EU priority, funds must be diverted from other ‘development’ priorities. Neither the negotiation process, nor the foreseeable outcomes for sustainable development bear the marks of good governance.

Fisheries Partnership Agreements (FPAs)

The report of a fact finding mission by an ACP-EU JPA delegation to the Seychelles during April 2008 (ACP-EU JPA, 2008) states that during the mission, certain problems were raised in relation to the FPA between the Seychelles and the EU. Non-State Actors complained of little EU involvement in the implementation of this Agreement. In particular, they claimed that Seychellois seamen serving on EU registered vessels did not receive the full wage they were entitled to under the FPA, and they pointed out that the EU has been paying the same licensing fee for tuna for some 30 years, despite much higher market prices. They also claimed that EU Sanitary and Phyto-Sanitary (SPS) rules were inconsistent or applied in an arbitrary manner (ACP-EU JPA, 2008: 5)²³. Furthermore, there is evidence that indicates that EU fishing vessels have vastly under-reported, and thus under-paid, their catches. The EU’s failure to implement consistent standards and rules as well as its dictation of how remuneration is to be spent, are characteristic of poor governance processes. Its failure to pay fair wages to citizens of developing countries, to pay fair licensing fees, and to enforce honest reporting and payments by its vessels starkly detract from the good governance goal of poverty reduction. Finally, contrary to the principle of ownership, Seychelles authorities stated that the FPA dictates how their government is to utilise the remuneration the EU pays under the FPA (ACP-EU JPA, 2008: 5). These and other practices, such as the continuation of bilateral agreements regarding regional public goods, are detrimental to sustainable development.

ACP-EU relations on fishing are currently governed by ‘bilateral’ agreements between the EC and individual ACP States. According to the JPA report, the Seychelles

²³ For example, different maximum levels of cadmium were set for EU OCTs, such as Reunion, and the Seychelles. Furthermore, all Seychelles vessels are required to have non-wooden decks, whilst the majority of EC vessels still use wooden decks

and surrounding countries requested the EC to consider a regional fisheries agreement, but this was turned down by the EC (ACP-EU JPA, 2008: 7). The EC also rejected repeated requests from the Pacific for a regional fisheries agreement. According to Oxfam International (2006: 5)

The EU's pursuit of bilateral fisheries agreements is inconsistent with their [sic] state aim of promoting regional cooperation in the Pacific and tends to divide the Pacific over the benefits from one of the region's key resources.

The regional contention resulting from the bilateral agreements poses a threat not only to cooperation, integration and political stability in the region but also to long-term, sustainable economic development. Failure to solidify a regional approach to manage such important finite resources could easily lead to every country grabbing – or selling the rights to grab – as much as they can while the supply lasts. This would quickly result in a complete depletion of the fish population, which would have a devastating effect on the Pacific economy, way of life, and the health of its people.

Discussion and Recommendations

The EU has considerable resources at its disposal that contribute to a significant power differential between it and the ACP Group. It wields a variety of mechanisms to govern these resources in its relationship with ACP States. By illuminating a few of these mechanisms, this paper has endeavoured to shed some light on these governance processes and their outcomes. There is considerable evidence that some policies pursued by the EU are not conducive to the promotion of sustainable development, the alleviation of poverty, and the gradual integration of ACP States into the world economy. The EU has abused its power advantage to impose its political will and economic agenda. The processes by which the EU, and especially the EC, has used to steer the members of the ACP Group toward compliance with its own interests and agendas are far from transparent. The opaque nature of these processes, and the fact that they leave the EU entirely unaccountable for their consequences, are trademarks of processes of bad governance.

The EU is not managing its relations with the ACP Group in accordance with its vows to respect ACP sovereignty and promote ownership of adopted policies and practices. A genuine partnership between the EU and the ACP Group must be based on a

jointly developed structured cooperation framework that sets out the responsibilities of both sides, includes regular and transparent dialogue, and allows the developing countries to take the lead in the formulation of their own development strategies. All provisions of the CA should be regarded as subordinate to the key objectives of the Agreement, including ‘appropriate measures’, conditionalities, and – perhaps more importantly -- how these are determined. Rather than imposing duties upon the ACP Group that it is ill-suited to fulfil, the EU should first provide the Group with means for capacity building and institutional support that will allow for the development of a capable, credible, and respected partner.

Appropriate capacity-building and institutional support includes paying fair wages and fees for services rendered. It entails applying standards fairly and enforcing policies that protect the long-term interests of developing populations. Contrarily, on various accounts the EU has promoted policies and engaged in practices that have contributed to further deprivation in ACP States and regions.

What can the EU do to promote the gradual integration of ACP States into the global economy? According to Nissanke and Thorbecke (2007: 265),

Whether global market forces establish a virtuous circle or a vicious circle depends on the initial conditions at the time of exposure and the effective design and implementation of policies to manage the integration process.

Consequently, these authors advocate the constitution of global governance structures that promote development. Birdsall (2007: 243) also claims that ‘the global economy needs the civilizing hand of appropriate intervention’, which she argues must include more transfers from rich to poor countries, more active management of global problems such as money laundering, tax evasion, sovereign bankruptcy, capital flight, global health and environmental issues, and a ‘global social contract’. In order to support the integration of ACP countries into the global economy in a way that promotes sustainable development and poverty reduction, the EU should first ensure that global governance structures are in place that can competently manage the integration process. To support the creation of, and provide resources for, competent, transparent and accountable global structures would be acts of good governance.

To a certain extent, the ACP Group elevates the EC to its relatively powerful position by failing to act in a collective fashion in order to condense and wield potential power of its own. The ACP Group does have potential carrots and sticks at its disposal. For example, collectively ACP States have attractive natural resources and vast markets, access to which is desired not only by the EU but also others (such as China and the USA). Furthermore, the collective voice of 79 developing countries, plus the support of development-friendly NGOs and other benefactors, could exert a considerable amount of normative pressure. They might begin with a critique of the EC's wielding of governance mechanisms.

Since the EC's power leverage largely derives from its command of the EDF, changes in how this fund is governed could make the system less prone to the abuse of power. While the EDF is funded by voluntary contributions from EU Member States, it is managed by the EC. Notwithstanding the at least rhetorical stipulation that funding decisions be made in consultation with the ACP Group, the EC currently has sole decision-making powers over the disbursement of the EDF. As it is a separate instrument from the EU general budget, the European Parliament (EP) has no oversight over the EC's management of the EDF. EU Member States and the EP generally act as checks and balances to the EC, and they have frequently critiqued the EC's actions in relations with developing countries. Thus, a system of development aid and cooperation that has these checks and balances in place might prove more apt at engaging in well-governed and development-conducive partnerships. A partner that manifests the criteria of good governance in its relationships, especially in those with weaker counterparts, will also be better positioned to advocate good governance.

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