

CONCORD'S SUBMISSION TO THE JOINT EUROPEAN COMMISSION- EUROPEAN EXTERNAL ACTION SERVICE CONSULTATION: TOWARDS A NEW PARTNERSHIP BETWEEN THE EUROPEAN UNION AND THE AFRICAN, CARIBBEAN AND PACIFIC COUNTRIES AFTER 2020

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[Common global interests in a multipolar world](#)

[Human rights, democracy and rule of law, as well as good governance](#)

[Peace and security, fight against terrorism and organised crime](#)

[Sustainable and inclusive economic growth and investment](#)

[Trade and regional integration](#)

[Human and social development](#)

[Migration and mobility](#)

[A stronger political relationship + Strengthen the relationship with key actors](#)

[Streamline the institutional set-up and functioning of the partnership](#)

[Cooperation tailored more towards groups of countries with similar development level](#)

[Better adapted and more flexible development cooperation tools and methods](#)

Part I - Shared principles and common interests (the 'what')

Common global interests in a multipolar world

1. To which degree has the partnership been effective in tackling global challenges?

The Cotonou agreement includes firm commitments to address global challenges such as climate change and natural resource management and governance, with specific references to the need for mainstreaming environmental issues across all ACP-EU cooperation programmes and at the highest level. Rightly so, these articles (e.g. art. 1 and art. 32) reflect the fundamental link that exist between conserving natural resources and ecosystems and efforts towards poverty reduction and increased human wellbeing.

This basis has contributed in putting climate change and environmental challenges high on the political agenda of the ACP-EU partnership, and led to the adoption of several policy initiatives. For instance joint declarations were approved on climate change (2006 and 2009) stressing the need for the two parties to cooperate towards the successful conclusion of UNFCCC negotiations and in the implementation of their respective commitments. More recently (June 2014) a joint declaration on the Post 2015 framework was adopted, highlighting key principles and vision for a fair and equitable global sustainable development framework, such as: being transformative and people centered, addressing the 3 dimensions of sustainability, promoting good governance, human rights, gender equality, integrating climate change issues throughout and focusing on most vulnerable countries. At the time of writing, the COP21 conference in Paris entered its last and crucial days of negotiations in December 2015, the EU and African, Caribbean and Pacific countries revealed their joint vision for an ambitious binding climate deal. Jointly they have called for the Paris Agreement to be legally binding, inclusive, fair and ambitious and setting out clear long-term goal is in line with science; the future agreement must establish a mechanism for reviewing progress made by countries every five years and include a transparency and accountability system to track progress on the delivery of national commitments. While this is undoubtedly a sign of a renewed political will to address common pressing challenges, such as climate change, and one that could push other developing and developed countries towards higher ambition, the donor-recipient dynamic has come into play once again since the EU has backed the declaration with a financial contribution of around 475 million euros that will support climate action, resilience-building and environmental priorities in ACP countries. The real impact of all these joint political declarations and position is thus to be seen and the outcome of the Paris COP21 conference may tell us if the ACP-EU partnership is strong enough to overcome other geopolitical interests.

Whatever the outcome of the negotiations to revise the Agreement, it is crucial that these shared values and principles are kept as a good basis for a renewed partnership between EU and ACP, and should continue to be promoted in a consistent way that is reflected in both the partnership and national frameworks.

On the development cooperation side, several programmes addressing Climate change adaptation and mitigation in ACP countries, natural resource management, DRR, sustainable fisheries management, biodiversity protection, water and energy, and other environmental priorities have been supported by EDF funds, both at the national, regional and particularly Intra-ACP level. Some of these have also benefitted directly Civil Society organizations. However, this support has not been sufficient to reverse the negative trend and ACP countries increasingly face environmental challenges due to unsustainable and inequitable natural resource management which undermine sustainable and inclusive development

efforts. Small Island Developing States (SIDS), particularly in the Pacific and Caribbean, and Least Developed Countries (LDCs), remain the most vulnerable to the impacts of climate change such as rising sea level, increased natural disasters, natural resource scarcity, while they remain the countries who have contributed the least to emissions.

In addition, inequality is one of the current key challenges that affect all countries around the world and ACP countries are not an exception. Despite existing efforts, inequalities not only persist but are in some cases exacerbated. Whereas this is a global trend, the ACP-EU partnership has failed to ensure that pre-conditions to avoid inequality are put into place. This could have been addressed by adopting an integrated agenda that looks at problematics across social, economic and environmental dimensions, including access to education, healthcare and resources. This has been translated into the failure of adequately investing in human development, including guaranteeing equitable access to basic social services and resources and to further economic growth in an inclusive and sustainable way (for more detail on these points, please refer to questions 7 and 17).

2. What would be needed to strengthen results in this respect and on which global challenges could the partnership add most value in the future, in the context of the new SDGs framework and in relevant international fora?

It is important to recognize that any future partnership between the ACP-EU will have to be framed in the context of the new Agenda 2030 and should contribute to its implementation at all levels. The new sustainable development goals address global challenges in an integrated way and provide a great opportunity for further tackling them jointly, moving away from the donor-recipient dynamic as they are universally applicable. In line with the principles of ownership and alignment, EU should not be deciding on the top issues/sectors it wants to support in ACP countries. Rather it should engage in a multi-stakeholder dialogue to find out how best to support the SDGs in accordance with country needs and gaps. The 17 goals are indivisible, so it is not a question of cherry picking individual goals but agreeing where to prioritise and where support is most needed.

Any future partnership should support a development model that is people and planet centered, addresses all dimensions of sustainable development and respects human rights; a path that meets the needs of today, without limiting the opportunities available to future generations. This should recognize the importance of preserving natural resources and ecosystems to underpin poverty reduction efforts and promote human well-being. The EU should continue to support ACP countries efforts in implementing Multilateral Environmental Agreements (MEAs). Support should go to promoting adaptation to climate

change, especially for LDCs and SIDS; this includes providing increased, stable and predictable source of climate finance, while addressing loss and damage associated with impacts of climate change, promoting technology development/transfer and capacity building in line with ACP countries priorities and needs. It is equally important that EU and ACP countries continue to cooperate and promote the appropriate policy framework and governance systems that can lead to inclusive green economies (resource efficiency, low carbon development pathways, renewable energy sources) that contribute to ending energy poverty in line with a '100% access to safe, clean and affordable energy services for all' target. In an interconnected world, the future ACP-EU cooperation should also target drivers of ecosystem loss and degradation such as population growth, accelerating urbanisation, changes in consumption patterns, investments and growing resource demands and land grabbing. What is very urgent and crucial for the EU is to address its own responsibilities and footprint abroad and to reduce the negative impacts that our development model is having on the climate and natural resources in ACP countries. Therefore we need to change our consumption and production models.

The EU should also be bold and put forward clear steps and initiatives to address the responsibility of its private sector companies operating⁵ abroad and ensure they adopt sustainable, equitable and responsible practices all throughout their supply chain. Private sector has a big responsibility when it comes to climate change and environmental degradation. Initiatives should address fair taxation and illicit financial flows, directly linked to Natural Resource use. In order to fight the global challenges of inequality, the revised partnership will have to rethink economic indicators and adopt measures of progress that better reflect people's well-being by focusing on inequality and inequity. The partnership should define a set of interventions that promote equitable access to resources and services, with a focus on basic social services, in addition to inclusive growth with decent jobs and livelihoods for all people (see also question 8 and 18). This set should be based on an integrated agenda that brings in the three dimensions of sustainable development and involves multi-stakeholders, including CSOs.

The partnership should also identify fundamental global public goods (GPG) to be provided, and ensure these are served through a division of labour and resources. Attention should be given to those GPG lacking support, particularly in human, economic and environmental development sectors. In line with this, Policy Coherence for sustainable development (PCSD) should be further promoted, as important mechanism for improving delivery of sustainable development and for the protection of human rights. PCSD is currently taken forward in article 12 of the CPA and should continue to guide future relations.

Finally, the future framework should continue to support and encourage CSOs to play a decisive role in addressing global challenges. CSOs can provide the expertise, knowledge and innovative solutions

supporting the transition towards sustainable, low carbon and inclusive development paths for all. The legal enshrinement of civil society as an actor in the CPA should be maintained and strengthened at operational level so that CSOs can engage in the implementation of Agenda 2030 at all stages from planning to monitoring.

[1] Refer to the position recently adopted by the ACP ambassadors ahead of the UNFCCC COP21 ACP group ministers, where climate change is referred as the single greatest challenge to the sustainable livelihoods, security and well-being of African, Caribbean and Pacific peoples, posing immediate and long-term significant risks to sustainable development efforts. Climate change threatens the very survival of the 79 developing countries that make up the ACP Group.

[2] As an example of such analysis focusing on future of the African continent see « African Ecological Futures, 2015 » a report by WWF and African Development Bank
http://www.afdb.org/fileadmin/uploads/afdb/Documents/Generic-Documents/xwwf_african_futures_report_english-lo-rez.pdf

[3] WWF, Living Planet Report, 2014

[4] See Africa Progress Report 2014 « Grain, Fish, Money : Financing Africa's Green and Blue Revolutions” by Africa Progress Panel, K. Annan and others

Human rights, democracy and rule of law, as well as good governance

3. Have the mechanisms provided for in the CPA (i.e. political dialogue, financial support, appropriate measures, suspension of the agreement) achieved meaningful improvements on human rights, democracy, rule of law and good governance, including the fight against corruption? Should the future partnership do more in this regard, and in what way?

Despite the existing mechanisms serving the partnership, the CPA has not significantly helped improving human rights, democracy, rule of law and good governance nor sufficiently improved the results in the fight against corruption.

The causes for such failure might be linked to the lack of political will. A mechanism such as article 96 could have created the space for more dialogue in the search for political solutions that respect human rights, democratic principles and the rule of law but discussions have proven to rarely lead to long-term progress and solutions.

The future partnership should hence include the following elements to promote human rights, democracy, rule of law and good governance:

- To have a more balanced relationship between Parties, that includes at its core the protection and promotion of human rights as a pre-condition for a life of dignity for all and in all sectors of cooperation, including amongst others basic social services, economic development and governance and management of natural resources and raw material.
- To systematically and consistently include the question of human rights in a comprehensive and concrete way and at all levels in the political dialogue between the two parties
- To be more consistent in its actions and ensure policy coherence for sustainable development
- Particular attention should be given to vulnerable or marginalised communities, including minorities, people with disabilities, as well as to women, children and young generations in partner countries. They should be key targets.
- To invest in capacity building of EU delegation for the application of the Action Plan on Human Rights and Democracy. This would imply reinforcing capacity-building for the EU Delegations while adding part on the inclusion of marginalised groups, and cooperating with local and national authorities.
- Policy makers should engage the private sector in the debate to protect and promote respect for human rights, namely through their corporate social responsibility and the implementation of UN guiding principles on business and human rights (Q.11 provides more details about this possible engagement).
- Consult and establish an institutionalized dialogue with local CSOs, particularly ACP CSOs, on a regular basis in a way to ensure local communities are heard and monitoring mechanisms are in place. CSOs have a large experience in promoting human rights and their technical assistance can also be valuable; eg before launching a call for proposal of businesses initiatives, networks of CSO working in human rights, including women's organisations, should be consulted to help the EU in preventing any negative side-effect, as the "do not harm principle". EUDs role and actions on the restriction of civil society space are still relatively limited.

In the light of improving human rights, democracy, the rule of law and governance, it is also essential that in the revised ACP – EU partnership the importance of transparency in the political dialogue is reinforced and that revised instruments are adapted in this regards. Consultations specifically opened to identify political solutions for a crisis should always involve non-state actors, particularly CSOs.

Tools should be agreed upon by all actors, including EU and ACP governments. Possible tools that could

be developed on the EU side are:

- More power and capacity to the EU Delegations (EUDs) to follow up on Human Rights issues. This should be linked with sufficient human resources, especially in governance units that are stable and able to create institutional memory with regards to the context
- Stronger relationships and political will for engagement between EUDs and civil society, between EUDs and ACP secretariat and MS country offices
- Further the involvement of MEPs in the ACP-EU Joint Parliamentary Assembly: need to raise awareness, make the JPA more relevant and useful (in terms of power and political visibility); and improve communication with the ACP group

4. Has the involvement of local authorities and non-state actors (i.e. civil society organisations, the media), national parliaments, courts and national human rights institutions in the partnership been adequate and useful to promote human rights, democracy and rule of law as well as good governance? Could they contribute more and in what way?

Through their programmes and projects and their core business, Civil society organisations play multiple roles in contributing to sustainable development, often in complementarity with national authorities. CSOs can often identify where efforts should be prioritised and reach out to people who are most excluded or difficult to reach. CSOs are proactive in providing practical solutions to local and global challenges and pilot important innovative projects that can be scaled up afterwards. CSOs often build or contribute to multi-stakeholder partnerships to implement certain programmes or projects jointly. Or they may play a convening role in bringing different actors to the table to explore solutions and bridge cross-sectoral gaps. These multiple roles are also recognized in the 2012 Commission Communication, which states that 'an empowered civil society is a crucial component of any democratic system and an asset in itself', contributing 'to more effective policies, equitable and sustainable development and inclusive growth' and participatory democracy by 'representing and fostering pluralism' and 'articulating citizens' concerns and growing demand for transparent and accountable governance'.

Civil society is specifically enshrined as an actor in the Cotonou agreement and this is specific to ACP-EU compared with other strategies and instruments. According to the CPA, CSOs should be involved in consultation of cooperation strategies and be associated to political dialogue of joint institutions. In addition, CSO should be provided with capacity-building and financial resources for supporting the implementation of those cooperation strategies. As such, there is a specific civil society envelope within the Cotonou development cooperation pillar which brings The particular case of the 11th EDF foresees approximately 60% of countries who opted for this envelop so that CSOs could either support priority

sectors or contribute for accountability mechanisms in the country.

But despite all these provision, the CPA does not define specific mechanisms for CSOs participation. This results in a very rare engagement between CSO and joint institutions, the sole exception being the ACP-EU Joint Parliamentarian Assembly where CSOs participate as observers. In addition, consultations in country programming are more frequent in ACP countries than in others that are not covered by the same type of provisions as the CPA, but often these are more validation exercises than consultations, with little influence over final decision. A recent CONCORD study has highlighted the fact that some EUDs are making a real effort to improve the quality of the consultation and that good practice exists. However, different formats are reported for consultations and meetings and the quality varied largely depending on the country and on the perception of the participating organisations¹. CSOs participation has been threatened by the growing number of countries adopting restrictive legal frameworks or actions, both at ACP and EU level.

To fulfil the objectives of promoting human rights, democracy, rule of law and good governance, the revised partnership needs to keep its recognition and scale up the engagement with non-state actors, in particular CSOs.

In order to support the different roles of civil society, the revised partnership should:

- Inform and involve EU and ACP CSOs at every stage of the process of designing implementation strategies and governance and accountability mechanisms, reviewing and negotiating budgets, drafting new or revising existing policies, legislative acts, instruments and programmes, and choosing the most appropriate aid delivery mechanisms and CSO funding modalities;
- Ensure that the monitoring, accountability and review mechanisms at local, national, EU and global level foreseen under the 2030 agenda envisage a central role for civil society and the public;
- Promote a constructive dialogue that demystifies partner countries' perception of CSOs as competing actors, instead of transformative agents for universality, equity, inclusiveness and sustainability;
- Establish multiple forms and mechanisms of dialogue between parliaments and CSOs and promoting space for civil society contribution in policy making processes at all levels including the local, national, regional and the global level. Further efforts should be done with regional organisations so that these can include dialogue with CSOs on a regular basis

¹ CONCORD (2015). Mutual Engagement between EU delegations and civil society organisations – Lessons from the field. <http://www.concordeurope.org/publications/item/406-the-eu-delegations-watch-report-2015>

- Support the progress of ACP countries in implementing the 2030 Agenda by engaging in regular dialogue with local CSOs to assess the impact of EU and Member State policies in those countries, address incoherencies and support civil society efforts on the ground. The EU roadmaps for engagement with CSOs could play an important role in this regard.

Peace and security, fight against terrorism and organised crime

6. Should the future partnership provide for more effective joint action on conflict prevention, including early warning and mediation, peace-building and state-building activities, as well as on tackling transnational security challenges? Should this be done in the ACP-EU context?

Given the EU's role as a global actor, its objectives of promoting peace and security should include:

- Tackling the root causes of insecurity, for which the promotion of a human right based approach, is fundamental.
- Fulfilling its full role as global actor and adopt sanctions in case of violations of human rights
- Promoting policy coherence regarding arms trade from EU member states
- Strengthening the judicial system at ACP level which include the involvement of CSOs
- Support development and strengthening of CSO early warning and peacebuilding mechanisms and initiatives which helps to identify challenges emanating from the grassroots level. Given their experience, CSOs represent the people's perspective, and help raising awareness to real life situations which otherwise would remain hidden. This would strengthen the partnership with the ACP governments especially in regions experiencing insecurity and disasters, both natural and man-made and also allow the people to contribute to issues affecting them
- Improve and promote:
 - Demobilisation, disarmament, rehabilitation system (DDR)
 - Reform of security sector (RSS)

The EU should also advance some unilateral efforts, which include:

- Monitor closely if EU Member States troops respect human rights, with a particular focus on the rights of women and children
- Use its one voice to react to human rights violations by UN troops
- Promoting human rights defenders in situations of instability and conflict by updating the European Union Guidelines on Human Rights Defenders and ensure sufficient resources for

support to Human Rights Defenders and other civil society actors involved in mediation and conflict resolution.

In addition, all stakeholders, including EU, EU and ACP countries and the UN should encourage more gender balance within their troops, as a way to encourage respect for gender equality, diversity and anti-bullying strategies. This is in line with UN Security Council resolution 1325 on participation of women in post-conflict processes, which sets concrete objectives that are often disregarded.

Sustainable and inclusive economic growth and investment

7. How effective has the partnership been in promoting sustainable and inclusive economic development?

Our vision of sustainable and inclusive economic development starts from people's rights, needs and aspirations and is based on a wide range of economic, social and environmental policies that respond to them and concentrate on how the local economy can be put at the service of the people. Our definition of a sustainable economy is one that is viable and socially equitable. It is inclusive, underpinned by gender justice, resilient to shocks and stresses, and brings benefits to all. It is also an economy that is environmentally sustainable, and does not undermine the ability of future generations to meet their needs.

This vision is not reflected in the CPA for which *Economic and trade cooperation shall aim at fostering the smooth and gradual integration of the ACP States into the world economy and the ultimate objective of economic and trade cooperation is to enable the ACP States to play a full part in international trade.*

Contrary to the consultation paper, we don't think that *economic performance in the ACP region has been remarkable, creating larger domestic markets and providing for new economic opportunities.* By promoting an economic development model almost exclusively based on international (or rather ACP-EU) trade and extractive industries, the CPA did not substantially contribute to sustainable and inclusive economic development. Despite some diversification of the economy and progress in social development in a good number of ACP countries, the following structural problems persist in many of them:

- Growing inequalities between and within countries
- Minimal floor of social security and decent work standards not enforced and respected
- Raw material extraction not environmentally and socially sustainable
- High vulnerability to climate change and natural disasters (LDCs, SIDs)
- Illicit financial flows depriving ACP economies of great share of potential domestic resources

- Economies vulnerable to external shocks and markets due to their high dependency on a few commodities and raw material extraction
- Focus on global value chains at the expenses of local value chains and local small scale producers and farmers
- Poorly developed and protected local and regional markets and lack of storage capacities
- Many ACP countries lagging behind the MDGs targets, poor quality and coverage of public services
- Growing instability related to social and economic conflicts related to the use of natural resources
- criminalization of cross border trade, with a particular focus on agricultural informal trade

8. Taking into account the new SGDs framework, should the future partnership do more in this respect, and what?

The revised partnership should be based on an approach to economic development that integrates at all levels and in all policies and actions the 3 pillars of sustainable development. It should be conducive to a new balance between state and market, with the state taking more responsibility to prevent and redress market failures in the social, environmental and economic domains. In that view it is necessary to keep and review articles 34 and 35 of the CPA to fully reflect the principles and objectives of the Agenda 2030.

Policy Coherence for Sustainable Development, which is a legal obligation for the Member States of the EU since its incorporation in the Lisbon Treaty in 2009 and which is now also included in the 2030 Agenda for Sustainable Development, is essential to promote sustainable development as it contains a commitment from the EU and its member states that none of their policies will hinder the achievement of global development and poverty eradication and they will all respect human rights. The future partnership should therefore capture this PCSD principle and include a commitment towards its full implementation in the all policies having a direct or indirect impact on people's rights and livelihoods.

Linked to the above point on PCSD is our recommendation that the revised partnership should include a better integration of climate change in all policies and cooperation programmes and in particular in vulnerable countries and regions that might need to be exempted from certain obligations and rules (in trade agreements for example).

Inclusive economic development with decent work is one of the prerequisites for eradicating extreme poverty and for leaving no one behind. The challenge for the 2030 agenda is to build on the progress made in previous years in terms of improving livelihoods of all people. The past assumptions that higher

levels of output would automatically lead to the number and quality of jobs, needed for economic transformation and social inclusion, was not true for many of the poorest people, including persons with disabilities. Equality of opportunity without discrimination on the grounds of gender, age, disability, ethnicity, religion or other protected grounds, is essential for ensuring sustainable and inclusive economic growth. Everybody should enjoy social protection without any discrimination and particular attention must be paid to disadvantaged groups. This requires that governments take appropriate steps to safeguard and promote the realisation of this right, including through measures to ensure universal access to social protection programmes and poverty reduction programmes.

Furthermore, in order to promote sustainable development, the revised partnership should include a renewed political dialogue with a more meaningful and structured participation of civil society as key actor in accountability and monitoring the implementation of the SDGs both by governmental and private actors.

(See also question 2 on the SDG framework.)

10. How effective has the partnership been in improving domestic revenue mobilisation, in promoting fair and efficient tax systems and in combatting illicit financial flows? Would there be added value and more efficiency in stronger ACP-EU cooperation on these matters?

The European Union has so far failed to implement its commitments to Policy Coherence for Development with regard to fair and efficient tax systems and illicit financial flows embedded in the 2006 European Consensus on Development and reaffirmed in the 2011 Agenda for Change:

- The EU did not implement concrete tools to facilitate tax collection from ACP States tax administrations (Article 33.3 CPA): there is neither public Country by Country Reporting nor EU public registers of beneficial ownership. Capacity building must go hand in hand with developing an enabling environment for Domestic Revenue Mobilisation (DRM) at EU and global level. The new Addis Tax Initiative, announced in the Third International Conference on Financing for Development and supported by the EU, might help informing this process.
- Capacity building of tax administrations is an essential step on the way to broadening domestic tax bases, developing national social contracts on taxation and making DRM more progressive and efficient. However, these efforts can only go so far in tackling tax dodging as even countries with well-resourced tax administrations are victims of tax evasion and avoidance. In a globalized economy no country can tackle these issues on its own.
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- The EU still has harmful tax practices used by major corporations both in the EU and ACP States (ART 33.3 i). Some Members States facilitate tax avoidance and evasion. This is not coherent with the priority of the European Commission to enhance ACP States capacities to mobilize domestic resources.
- There has been no support to the integration of ACP States in international fora to work on tax cooperation (Article 33–3. point ii): global tax reform has taken place within the OECD and developed countries did not support the idea of having a UN body on tax or a World Tax organization.
- ACP States have no access to the same information as the developed countries (Article 33–3. point iii) developing countries are not temporarily exempted from providing reciprocal information exchange which means they need to have the capacity to give information before getting information.

There is high added value in a more efficient cooperation on this. To palliate the insufficient support to DRM and to build pro-poor fiscal systems, Policy Coherence for Development and increased support for domestic resource mobilisation and tax authorities in developing countries in line with the principle of ownership must be promoted and fully implemented.

In order to promote such efficient cooperation, the EU should agree to certain commitments and stress these in the revised partnership:

- Putting in place the right frameworks and standards at the EU, OECD and international levels to effectively fight tax evasion and avoidance within the EU, and globally, to prevent EU corporations to avoid taxation in ACP States (through Unitary taxation for example).
- Better inclusion of ACP States in international fora to discuss global tax reforms (UN Body – EU/ACP States Committee on tax cooperation), and promotion of their full participation in international tax governance and standard-setting through, notably, an upgraded UN tax body.
- Adopting and enforcing regulations at EU level on country by country reporting, non- financial reporting of companies, public registers of beneficial ownership, tax rulings made publicly available also to ACP States, etc.
- Automatic exchange of information between EU and ACP without obligation of reciprocity by ACP countries, i.e. temporarily exemption of “reciprocal” information exchange for ACP States.
- Analyse the potential spill over effects on European and ACP States of any new European legislative proposal on tax and assist ACP States to conduct analysis on the impact of their tax systems on economic and gender inequalities through impact assessments. The European

Commission's recently adapted Better Regulation package offer a good starting point to ensure compliance of Impact Assessments with policy coherence for sustainable development and human rights obligations

- Refraining from allocating loans and subsidies to private sector entities under investigation for tax avoidance.
- Dedicate more funds to administrative capacity-building, particularly to help ACP States to build tax administrations capable of effectively collecting taxes.

In addition, support to the development and management of fair and progressive tax systems and good management of public resources and natural resources in ACP countries including through the support to independent official auditors and the judicial system, the control of the Parliament and the support for the independent monitoring by civil society is also essential to promote fair and efficient tax systems and to combat illicit financial flows.

11. Has the partnership been able to contribute substantially to mobilising the private sector and attracting foreign direct investment?

It is difficult for us to answer to that question as private sector interest and foreign investments are influenced by many different factors.

We are not convinced that mobilising private sector and foreign investments should be the priority of ACP-EU cooperation but we think that any ACP-EU agreement should provide the political framework and the support to ACP governments allowing them to ensure that foreign investments and private sector contribute to sustainable and inclusive economic development in the full respect of human rights and the rule of law.

The following measures can help to put collective interests and public goods at the centre of investment and private sector policies and actions. More information on these suggestions can be found in the CONCORD [spotlight report on investments](#)².

² CONCORD (2015). Spotlight 2015 – Investing for development. Examining the impacts of the EU's investment regime on food security, the right to food and land governance. <http://www.concordeurope.org/coherent-policies/food-security/item/459-spotlight-2015-investing-for-development>

- The EU and ACP countries should promote the establishment of robust regulatory frameworks with clear criteria to protect the rights and food security of the vulnerable, within which the various private sector actors must operate, including where the use of Public Private Partnerships (PPPs) is concerned.
- The EU should make sure investors are not protected to the detriment of governments endeavouring to protect local communities' land tenure and land use rights. The EU and its Member States should drop ISDS from all EU and bilateral trade and investment agreements with ACP states since investors should rely on independent national court systems for their protection. If strong evidence proves that protection of investors could not be ensured properly, alternative dispute resolution mechanisms under which human rights and public interest considerations have precedence over any other interest should be explored. Such mechanisms should ensure transparency and accountability and allow public review and their awards must be appealable before the International Court of Justice or a yet to be created International Investment Court.
- Land use changes, land footprint, FPIC and biodiversity should be expressly and systematically integrated in the human rights and sustainability impact assessments of investment treaties. The EU and its Member States should initiate participatory reviews of their investment agreements; systematically carry out ex-ante and ex-post Human Rights Impact Assessments of all IIAs in compliance with the UN Guiding principles on human rights impact assessments of trade and investment agreements.
- The EU and EU and ACP member states should support and engage in the process towards the adoption of an international legally binding instrument on transnational corporations and other business enterprises with respect to human rights at the UN Human Rights Council.
- As required by the Maastricht Principles on Extraterritorial Obligation of States (ETO) in the area of Economic, Social and Cultural Rights, the EU and Member states should protect people in ACP countries from human rights abuses by European investors, such as land grabs. In order to do so, they should ensure access to judicial or quasi-judicial remedies at EU level for groups and individuals affected by European corporations' activities in ACP countries.
- New instruments of the Food and Agricultural Organisation Committee on World Food Security (FAO/CFS), such as the Voluntary Guidelines on the Right to Food (November 2004) and Voluntary Guidelines on responsible Governance of Tenure of Land, Fisheries and Forests in the Context of national Food security (March 2012) or the Principles of Responsible Agricultural Investment (RAI) (October 2014)

12. How could the potential of the EU and ACP private sector be better harnessed? What should be the main focus of EU and ACP private sector cooperation in a post-Cotonou framework, and what might be the role of ODA in this?

In the area of private sector cooperation, the post-Cotonou framework should focus on small scale producers and farmers and on securing an enabling environment for micro, small and medium size enterprises (MSMEs). ACP-EU cooperation and EU ODA should focus on that **category of actors** instead of investing growing amounts of ODA into big infrastructures and investments funds through the blending facilities that do little to support MSMEs. Civil society actors, including NGOs, producers' cooperatives and microcredit initiatives should be fully involved and supported in ACP-EU cooperation on private sector.

Beyond more secured, predictable and user-friendly legal obligations, a better enabling environment and stronger support should provide access for MSMEs and small-scale farmers to:

- resources and means of production
- land with a particular focus on women and young farmers and entrepreneurs
- information including on legal framework, markets and governmental decisions and negotiations that have a direct or indirect impact on the local economy
- knowledge and results of research including on sustainable models and techniques of production such as agroecology or renewable energy
- tools for learning and exchanging good practice
- infrastructures adapted to their needs (in particular in rural areas) and storage facilities
- credit facilities adapted to their needs and capacities

In general, the EU should take the lead in promoting further in-depth research and policy debate in the context of ACP-EU cooperation and involving actors in the different sectors, on the relations between small-scale food producers, markets and food security in follow-up to discussions initiated in the CFS. This process should comprise rigorous assessment of the effectiveness of PPPs and agribusiness-led value chains as instruments of food security and development, as well as of the kinds of regulatory frameworks required to protect the rights of the vulnerable in situations of power imbalance. The development and monitoring of an implementation plan for the communication on the role of the private sector in development in the field of food security and rural development could provide one opportunity for doing so.

(More information on these suggestions can be found in the CONCORD [spotlight report on investments](#)³.)

When ODA is used to support the development of private sector or to leverage private finance as is the objective of the EU with its blending facilities and PPPs, it is of utmost importance to apply strict criteria and to put in place fair, independent and transparent selection processes that respect the development effectiveness principles and in particular the ownership and mutual accountability and transparency principles. The principles and criteria for leveraging private finance and blending should be established in the ACP-EU cooperation agreement and it would also be important for EU and ACP partners to agree on conditions and sectors of cooperation where private finance and blending modalities can bring an added value compared to public finance and other cooperation modalities.

All EU and Member States' support for private sector development should be based on the Busan commitments, which represent a strong and internationally agreed framework to ensure the effectiveness of development cooperation. A clear ACP-EU framework of principles and compliance with their implementation is required to ensure that the role of the private sector is effective in contributing to the achievement of agreed development outcomes. The post-Cotonou framework should ensure proper adherence to social, environmental, fair taxation, human rights, gender equality and transparency and accountability standards as a precondition for support to private sector actors in development as underlined in the EU Council Conclusions of June 2014 on the role of the private sector in development. In particular, the EU and its Member States should take additional steps to protect against human rights abuses by business enterprises that receive substantial support and services from State agencies including by requiring human rights due diligence, as confirmed in the UN Guiding Principles on Business and Human Rights. Furthermore, multi-stakeholder approaches should be established to pre-assess, monitor and evaluate private sector initiatives in a transparent way and intended beneficiaries should be centrally involved in these processes.

Trade and regional integration

14. To what extent has the partnership been able to contribute to increase agricultural development and trade?

The important question here is what agricultural development? The agricultural development we want to see is one that is based on and supports the small scale family farmers in the ACP countries. There has

³ CONCORD (2015). Spotlight 2015 – Investing for development. Examining the impacts of the EU's investment regime on food security, the right to food and land governance. <http://www.concordeurope.org/coherent-policies/food-security/item/459-spotlight-2015-investing-for-development>

been too little focus on this in the implementation of the CPA (less so in the 9 and 10th EDF than in the 11th). The EU also has not offered much support for sustainable family farming in ACP countries in the FAO and CFS and other relevant international institutions.

As for agricultural trade, the first priority should be to enable local and domestic trade of agricultural products and food, with a link between farmers and cities traders, and then regional trade.

In CONCORD's view, a coherent model of agricultural investment, which should also be supported in the revised ACP–EU partnership, should be about:

- healthy, nutritious and affordable food for all
- access to and control over productive resources such as land, water, seeds and traditional knowledge by local smallholder farmers/producers
- benefits for local producers, and sustainable livelihoods
- a sustainable model of production and consumption

Such benefits will be achieved by implementing PCSD consistently in key policy sectors, and notably by reforming the current biofuel policies, agreeing supportive, fair, trading instruments and following demand-led research agendas.

In line with CONCORD's vision for people to live within the boundaries of what our planet can provide, agriculture should be also part of the solution; this includes the deliberate choice to support agro-ecological and other sustainable approaches to producing food for the entire world's people, which have the potential to help restore the environment. Agricultural investment should be done in a way to ensure the right to food. Hunger is an issue of injustice, so the basis of all solutions to hunger should lie in a just redistribution of power, in which there is genuine participatory democratic governance of our food systems. Gender inequality, poverty, marginalisation and power inequalities distort the current food system. To have any chance of changing it for the better, the revised partnership needs to confront these injustices.

15. What has been the contribution of the partnership trade preferences to the integration of ACP countries in the world economy and to its development goals?

This question has been partially answered by a recent study of the EC⁴ (*Assessment of economic benefits*

⁴ *Assessment of economic benefits generated by the EU trade regimes towards the developing countries*. Brussel, 2015: <http://trade.ec.europa.eu/doclib/events/index.cfm?id=1345>."

generated by the EU trade regimes towards the developing countries) which clearly states that EU trade policies have significantly increased the exports from developing countries in the last decade and that they have also helped these countries to diversify economically.

However, despite a contribution to economic growth and diversification, trade preferences' impact on poverty reduction is less clear. In order to reduce and eventually eradicate poverty, they need to be accompanied by other policies and Aid for Trade. Simply replacing them with reciprocal free trade agreements will not lead to more growth or to poverty reduction.

In this sense the post-Cotonou framework should not contain any obligation for ACP countries to engage in free trade negotiations and should instead reconsider the proposal by the ACP countries to offer 'Everything but Arms' to ACP regions that consist mainly of least-developed countries. The EU should thus not be pushing the ACP countries to engage in free trade negotiations. Rather, ACP countries should be free to decide when, and how they would enter into any trade and investment negotiations with the EU, provided that these would not undermine regional integration efforts. The EU should therefore not enter into negotiations with individual ACP countries without consent by their REC's.

16. Is there still a need for specific provisions on trade cooperation in the post-Cotonou framework, also taking into account the ACP countries which have not signed an EPA? If so, what could/should they cover?

The Cotonou successor agreement still needs to contain specific provisions on trade cooperation comparable to CPA art.34-35. These provisions need to lay down the principles that would govern the ACP-EU economic and trade cooperation, in particular:

- due regard for the political choices and development priorities of the ACP countries
- promoting sustainable development
- contributing to poverty eradication
- enhancing production, supply and trading capacities
- improving their capacity to handle all issues related to trade
- giving priority to their regional integration
- taking into account the different needs and levels of development of the ACP countries and regions.

When talking about the different needs and levels of development of ACP countries and regions, it should be clear that "annual income per capita" cannot be the sole criterion on which differentiation

would be based; an adequate set of criteria needs to be developed

Apart from the principles above, it should also be clear that in the future ACP-EU partnership the ultimate objective of the economic and trade cooperation should not just be “to enable the ACP states to play a full part in international trade” as in the CPA. Rather, it should aim to achieve sustainable development as set forth in the Agenda 2030 – including the impact trade policy will have in decent work (target 8.3). As foreseen in the new Agenda, full integration in international trade should be accompanied by inclusive and sustainable economic development. The economic and trade cooperation between ACP and EU in the Post-Cotonou framework should start from the Agenda 2030 and provide answers to the question: “What economic and trade policy is needed to achieve each of the Sustainable Development Goals and targets”, for instance: “What can trade policy do for this particular country or region to end hunger and ensure access by all people, in particular the poor and people in vulnerable situations, including infants, to safe, nutritious and sufficient food all year round” (Target 2.1).

The post-Cotonou framework should however not contain a trade pillar in the sense of the EU-Central America agreement (where it is in fact a full-fledged broad and comprehensive trade agreement); nor should it contain commitments to negotiate free trade (and investment) agreements, calendars or deadlines as in the CPA. ACP countries should be free to decide when, and how they would enter into any trade and investment negotiations with the EU, provided that these would not undermine regional integration efforts. The EU should therefore not enter into negotiations with individual ACP countries without consent by their REC's.

Human and social development

17. Has the partnership delivered on its human development objective in an effective and efficient way, in particular on poverty eradication, and also concerning gender equality and empowerment of women?

How could it be improved?

There has been progress with regards to human development under the current CPA, but not as much as desired. At the moment there is even a trend to withdraw funds from basic social sectors f.e. when looking at the priority sectors in the National Indicative Programs (NIPs) of ACP countries (CONCORD's reading of 55 publicly available NIPs by August 2015 has shown that only 16 ACP countries had chosen either health or education. We risk a dilution of human development as a priority).

The CPA mentions gender as a priority, but political vision and its translation into programming are weak. For example, the majority of the 55 analysed NIPs mentions gender equality as a challenge, but the

priority sectors fail to take this into account (at results or indicators level). Furthermore, although the CPA dedicates a specific provision to the potential of young generations and that ACP countries often identify youth unemployment as a key challenge, this is rarely reflected in the development and implementation of programmes under the partnership. This consultation paper fails to mention children and young people, even though worldwide 47% of people living in poverty are children and in most of ACP countries children and young people represent more than 50% of the population. Furthermore, multiple discrimination has not been taken into account, even though it can have serious impact on people's lives. Women with disabilities for example often face double discrimination and face serious challenges.

How can this be improved?

- We need a clear definition of Human Development. At the moment human development is often narrowed to result of economic progress, even in this consultation paper. On the other hand, concerns about demographic change often fail to address human development and focus on the migration-security nexus; Rarely there is an integrated vision of how basic social sectors impact demography and population dynamics such as urbanization, migration, demographic changes. We need a broader definition, in line with Agenda 2030 including aspects of inequalities, empowerment and human rights.
- Public funds need to support basic social sectors and domestic resources play a fundamental role. The EU should support and encourage partner countries to adopt non-discriminatory and pro-poor budgets and fiscal policies at all levels, and support and institutionalize a gender-sensitive approach to public financial management.
- ODA is still essential and should act as a catalyzer to capacity development for fair distribution of the existing resources through social protection and social sectors. Some challenges exist: EU remains well short of the 0.7% target, aid budgets are increasingly being used to cover refugee and asylum seekers costs, EU has responsibility to ensure ODA is not used for non-ODA type of expenditures, eg. border control (f.e. recently approved African Trust Fund).
- Although, under the Agenda for Change the EU commits to allocate 20% of its funds for human development it has failed to deliver on the CPA human development objective. To mainstream Human Development, programmes under the CPA should focus on ensuring that this dimension is not diluted, through clear indicators, results oriented actions, appropriate budget allocations and internal expertise. Several of the CPA objectives under social sector development are not put into place. This undermines the chances of healthy and productive lives and physical and mental well-being for all, especially for the youngest generations. It further weakens any efforts to ensure gender equality and eliminate discrimination on any ground. There is need for an

integrated agenda, where human development is not reduced to basic social sectors input, but entails a more comprehensive dimension of well-being, including amongst others peoples' participation, resilience, human security, gender equality.

- Need for a focus on inequality and inequity rather than simply poverty reduction (Agenda 2030 vs the obsolete measure of progress for the MDGs). We need to look at poverty eradication in an integrated way, for example by linking it with a balanced fiscal system.
- Need for monitoring and evaluation in the area of HD, including: collection of disaggregated data; include HD as part of the ex-ante impact assessment and evaluation of all policies and programmes (link to PCSD); capacity-building to assess progress in human development and to input in accountability mechanisms.
- Civil society has a clear role in fostering human development. This will enhance ownership and accountability. Clear mechanisms to put communities at the center should be put in place.
- A Human Rights Based Approach at the basis of the revised partnership.
- Include women and girls facing multiple discrimination in mainstream gender policies and programmes.

18. Taking into account the new SDGs framework, what are the main challenges related to human development that the future partnership should focus on?

The new partnership can only succeed in fostering human development if it adapts an integrated approach and leaves behind silo investments in different sectors.

- Inequality both within and between countries.
- Leave no one behind approach. The revised ACP-EU partnership should not focus on poorest countries but on poorest people. This also implies as a guiding principle the participatory approach in implementing the Agenda 2030
- A list of very important interventions such as improving health, education, and social protection in a way that supports gender equality and youth empowerment could be listed here. The revised partnership should prioritise investments in those global public goods that better serve physical and mental well-being for all. This includes means of implementation, already stated in the CPA as objectives but that seem to have fallen, such as research and innovation, especially for basic social sectors. Any investment in this front should be accompanied with capacity-building. In addition, the partnership should promote issues that have cross-cutting spillover effects for human development; eg sexual and reproductive health and rights, which are pre-condition for gender equality, positive health outcomes and access to education and participation

- The only way to ensure that human development is happening is by consulting targeted communities and work with them to lift them out of poverty and see what their priorities are. CSOs play an essential role in bringing communities' voices to the decision-making level. This reinforces evidence-based needs assessment, policy recommendations and design of programmes that can better support human development.

Migration and mobility

19. Has the partnership been a useful vehicle for discussing migration issues and has it positively contributed? Has Article 13 CPA been fully applied?

Article 13 has contributed in a very limited way to the discussion on migration issues. This is mainly due to its narrow focus on legal residents, migrants legally employed in EU and ACP countries, returns and readmission of nationals illegally present on the territories of EU and ACP countries “without further formalities”.

In addition, the CPA has not contributed to a labour oriented migration policy to open legal ways, leave alone offered ways for unforced migration to the EU. As it showed during revision periods, the migration article has been violated as conditioning of cooperation.

20. Should a future partnership do more in this regard, and on which particular aspects should it focus (legal migration and mobility, addressing root causes of migration, return and readmission, tackling human trafficking and smuggling, international protection)?

Yes, the future partnership should indeed do more in this regards. More particularly, it should include the following issues:

- Focus should be on protecting human rights of all migrants, independently from their status, in line with Agenda 2030 paragraph 29 which states “We recognize the positive contribution of migrants for inclusive growth and sustainable development. We also recognize that international migration is a multi-dimensional reality of major relevance for the development of countries of origin, transit and destination, which requires coherent and comprehensive responses. We will cooperate internationally to ensure safe, orderly and regular migration involving full respect for human rights and the humane treatment of migrants regardless of migration status, of refugees and of displaced persons. Such cooperation should also strengthen the resilience of communities hosting refugees, particularly in developing countries. We underline the right of migrants to

return to their country of citizenship, and recall that States must ensure that their returning nationals are duly received..."; Agenda 2030 target 10.7 on fair, safe and responsible migration; the EU Action Plan on Democracy and Human Rights, adopted in July 2015, as well as with relevant UN and ILO Conventions (namely the UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families entered into force in 2003).

- The respect to the principle of non-refoulement should be explicitly mentioned.
- Building on the reciprocity principle, EU should ensure that people who migrate to Europe have access to their fundamental economic, social and cultural rights, including the right to health, the right to an adequate standard of living, including housing, water, sanitation, and food; the right to education; the right to social security.
- Focus on South – South migration should be strengthened
- Policy coherence for development should be ensured

At the same time, EDF resources should not be used for reception of asylum seekers in Europe nor for fighting people smugglers or financing border control reinforcement by African countries.

Part II - Towards a more effective partnership (the 'how')

A stronger political relationship

21. How effective has the political dialogue been and at which level is it the most effective: national, regional and through the joint EU institutions? Should the scope of political dialogue be widened or narrowed?

At high level, we observed increasing frustration and mistrust between the ACP and the EU resulting from the slow and difficult negotiating process around the economic partnership agreements (EPAs) or the International Criminal Court warrant of arrest for the Sudanese President Al-Bashir and from the fact that on the EU side many ministers no longer take the time and trouble to attend the annual Joint ACP-EU Ministerial Council meetings. Moreover, the dialogue between the two parties on the question of migration, visas and readmission has never been easy and conclusive.

The ACP-EU partnership seems to have lost considerable influence in terms of its political relevance. The political dialogue that is an important pillar of the CPA is viewed on ACP side as one-sided in the way the EU promotes the values of the CPA and chooses when and where to intervene. Substantive issues in the areas of peace and security, migration and the fight against terrorism and organised crime are largely

dealt with outside the ACP-EU framework. These signs of European “disengagement” seem to be aggravated by an increasing lack of high-level ACP interest in their own group. Moreover, the participation of civil society and other non-governmental stakeholders in the dialogue, a binding provision of the CPA, is far from meeting the expectations.

At national and regional level, the dialogue is more lively but often interlinked with financial cooperation and trade negotiations and it lacks transparency and involvement of civil society and other non-state actors.

The revised partnership, regardless of its new configuration, should keep the three levels for political dialogue: national, regional and joint institutions and the scope should be decided by the two parties depending on the content of the future agreement and on how the dialogue complements other institutional dialogue at regional level such as the EU-AU dialogue in the framework of the JAES. Dialogue at national level should be strengthened to integrate the principles and broad scope of Agenda 2030 and mechanisms should be put in place to promote a meaningful involvement of civil society in the dialogue at all levels.

Coherence of geographical scope

24. Could a future framework be usefully opened up to other countries than the current members of the ACP Group of States? Which countries would that be?

The basis of the ACP-EU relationship is a post-colonial one. In the 21st century this can no longer be the reason for an agreement as the Cotonou Agreement. Therefore a broader or a different geographical scope could be considered, for example, with special attention for countries with a lower level of socio-economic development (LICs and LMICs). Nonetheless, the EU should respect and support the geographic configurations that are established by partner countries themselves and should refrain from creating new configurations with the single purpose of cooperation with the EU. Moreover, elements of the history of the ACP-EU relationship should not be fully disregarded in the revised partnership – do not throw the baby away with the bathwater.

25. What kind of framework should govern EU and ACP relations? How could an ACP-EU successor framework relate to the more recent EU regional partnerships with Africa, Caribbean and Pacific States? Could a future ACP-EU framework include distinct partnerships with regional partners?

Whatever framework will govern ACP-EU relations there are certain key values and principles that should

always be central. Essential in this regard are the key principles of the Agenda 2030 for Sustainable Development, which is currently the main international development framework. These key principles include amongst others: the focus on reducing inequality and eradicating poverty; the idea that in this fight no one should be left behind; the universality principle; the focus on human rights, good governance,...

During negotiations, the ACP group should be given the chance to talk with one voice, showing respect to the group as such. There are already some reports being developed by that Group, namely from the Eminent Persons Group, that could be taken as references during the consultations.

The EU should encourage its Member States to see ACP-EU relation as a cooperation tool for development that benefits first ACP (and not the economic interests of Member States). The 2030 sustainable development agenda provides a good opportunity for this, as it is not a development cooperation exercise with simple transfer of flows. Rather it should be embraced as a new way of working within and between countries to deliver long term benefits and wellbeing for people and the planet.

26. Is there scope for building in more structured relationships with Asia, Latin America, the Middle East and North Africa?

This should first and foremost be a decision of the ACP countries. However such more structured relationships between ACP and Asia, Latin-America, the Middle East and North Africa can be a way for the ACP countries to gain importance at global level. It will increase their independence.

CONCORD would be interested and willing to further discuss this point, once different options for the revised partnership will start being examined.

Cooperation tailored more towards groups of countries with similar development level

27. Is the current system of allocation of development resources, based on need and capacities as well as performance, sufficient for channelling funds towards those countries where the highest impact can be obtained? Should allocation of resources continue to prioritise countries most in need, including fragile states?

Fragile states should be kept as a priority in the revised partnership. The greatest number of LDCs and

SIDS is to be found within the ACP States. EU development funding should be focused increasingly on these. Apart from high levels of poverty and inequality, these are the most vulnerable to the grave impacts, eg of climate change to which they have contributed the least in terms of carbon emissions.

Furthermore, the future partnership needs to go beyond GDP as the key proxy for sustainable and inclusive growth as this fails to measure existing inequalities and vulnerabilities and therefore does not provide a clear picture of the country concerned. Such an approach will always hurt the most marginalised and poorest in society and fails to identify where ODA should be allocated.

In case of differentiation, it is essential that the overall level of aid for ACP countries is kept. The absolute amounts of ODA should not be reduced even if the number of beneficiaries reduces because of countries' graduation.

Countries to be graduated should be subject to a transitional phase, as encouraged by the European Parliament during negotiations for the DCI under the current MFF. Before submitting countries to such a graduation process, it is essential to proceed with impact assessments of the effects of such graduation, both ex-ante and ex-post. Civil society organisations should be involved throughout this process, as they can inform needs assessment, bring evidence of possible impact and represent the voice of the people, including the most marginalised.

Differentiation in trade arrangements is also important. Negotiations for the Economic Partnership Agreements (EPAs) have kept or even exacerbated existing inequalities and vulnerabilities of ACP countries.

28. What kind of cooperation could help to cover the specific needs of more developed ACP countries with a view to attaining more equitable and sustainable growth?

Apart from development cooperation, other forms of cooperation should also be prioritised. ODA should act as a catalyser of domestic resources and global public goods. Specific activities might include support to innovation, capacity-building, improvements in the tax system and public financial management with fair distribution of resources for social protection/the removal of obstacles to service delivery, or addressing barriers to participation in education or health.

Even if the country is graduated, the future partnerships should always include support for respective CSOs. This can be done by supporting civil society-led accountability mechanisms and investing in capacity-building.

Strengthen the relationship with key actors

29. Has the current model of stakeholder engagement been conducive to attaining the objectives of the partnership in an efficient way? Which actors could play a more significant role in the implementation of the partnership? How could this be addressed?

- There are several actors that should have an important role in the partnership: national parliaments, non-state actors, states, regional organizations, civil society, private sector, EU institutions and Member States. These actors are not new, and the best would be to focus on how they participate in the partnership:
- How can and should they be engaged: this should be specified (in the spirit of equal partnership).
- The framework and its priorities will have an impact on the way actors can engage, notably if the economy/growth remains a priority. The partnership should not only seek to create an enabling environment for the private sector but also to empower and build the capacity of states to hold the private sector to account (taxes, use of resources, etc...). Currently, this partnership fosters an unbalanced relationship.
- Civil society needs to be empowered to fully engage in the partnership. This further requires enabling environment for participation, for which a set of measures can be put into place (cf Question 4)

In order to ensure that the stakeholders effectively contribute to attaining the objectives of the partnership, there is a need for more transparency, accountability and the definition of a clear division of labour on who does what for what.

30. What could be done to promote effective and efficient involvement of both international and domestic private sector, civil society, social partners and local authorities in the partnership?

Also cf question 4 and 29

Through their programmes and projects and their core business, Civil society organisations play multiple roles in contributing to sustainable development, often in complementarity with national authorities. CSOs can often identify where efforts should be prioritised and reach out to people who are most excluded or difficult to reach. CSOs are proactive in providing practical solutions to local and global challenges and pilot important innovative projects that can be scaled up afterwards. CSOs often build or contribute to multi-stakeholder partnerships to implement certain programmes or projects jointly. Or they may play a convening role in bringing different actors to the table to explore solutions and bridge cross-sectoral gaps. These multiple roles are also recognized in the 2012 Commission Communication, which states that 'an empowered civil society is a crucial component of any democratic system and an

asset in itself', contributing 'to more effective policies, equitable and sustainable development and inclusive growth' and participatory democracy by 'representing and fostering pluralism' and 'articulating citizens' concerns and growing demand for transparent and accountable governance'.

Although the participation of civil society is defined by article 6 of the Cotonou Partnership Agreement, currently it still happens at a rather ad hoc basis. With regards to the involvement of CSOs in a future ACP-EU partnership, several elements should be put into place. EU and ACP CSOs should be involved at every stage of the process of designing implementation strategies, governance and accountability mechanisms, reviewing and negotiating budgets, drafting new or revising existing policies, legislative acts, instruments and programmes, and choosing the most appropriate aid delivery mechanisms and CSO funding modalities. They should also be involved in the establishment of multiple forms and mechanisms of dialogue between parliaments and CSOs. Furthermore a space for civil society contribution in policy making processes at all levels including the local, national, regional and the global level should be promoted. The CPA should furthermore foster an inclusive and institutionalised dialogue. Civil society needs to be more involved at the level of the political dialogue to ensure the partnership delivers in its objectives. This dialogue should not but voluntarily but obligatory. More information on the inclusion of civil society can be found under question 4.

The Agenda 2030 is a multi-stakeholder agenda and the EU sees the private sector as playing an important role in delivery. While a proactive move towards sustainability and support for delivering the SDGs will be crucial, it is governments which have adopted the goals and framework and who are the primary duty bearers. This should be borne in mind when using modalities such as blending and PPPs. Inclusive, long-term sustainable development and well-being should be the key objectives. The use of blending and PPPs must be based on this premise. Transparency, inclusiveness and sustainable development criteria must be seen as more important than simple cost-effectiveness or potential leverage effects.

Streamline the institutional set-up and functioning of the partnership

34. Has the joint institutional set-up (with the ACP-EU Council of Ministers, the ACP-EU Committee of Ambassadors, and the Joint Parliamentary Assembly) been effective in debating and promoting common views and interests and in providing political guidance and momentum to the ACP-EU partnership and the implementation of the CPA?

The donor-recipient nature of the ACP-EU relationship, with the EU clearly in a more dominant role, creates an imbalance. The joint institutional bodies have therefore not been effective in promoting the

idea of a common joint partnership. Next to that, low involvement of EU ministers in the joint institutions showed a lack of interest on the EU member states' side. This also had a negative impact on the effectiveness of these institutions aimed at political dialogue.

35. What is the added value of the joint ACP-EU institutions as compared to more recent regional and regional economic community frameworks for dialogue and cooperation?

The ACP-EU relations date back to 1959 with the first Yaoundé agreement, followed by the joint institutions that have been existing for a long time. Unlike the more recent regional and regional economic community frameworks, which have less historical background.

The representation of the ACP group collectively in joint institutions makes ACP countries' political voice stronger than if separated. In addition, ACP countries could be linked to other regional frameworks: the African countries could perhaps be linked to the African Union (AU), while the Caribbean countries could be linked to the community of Latin American and Caribbean States (CELAC). However, the Pacific seems to lose its weight in such a regional cooperation, as it has at the moment no relations with other regional organisations or networks.

With regards to civil society participation, the ACP-EU institutions could have much more room for manoeuvre. But if compared to other regional cooperation mechanisms, for example between the EU and the AU (which nonetheless includes clusters for representation of grassroots groups), the partnership offers some opportunities due to the legal enshrinement of the role civil society should have in the partnership. However, civil society participation should definitely be further strengthened namely by identifying and setting clear participation mechanisms.

36. What institutional arrangements would most effectively help address common challenges and promote joint interests?

The participation of civil society, as also defined by article 6 of the Cotonou Partnership Agreement, is key in order to effectively address common challenges and promote joint interests. At the moment the participation of civil society happens rather ad hoc. There is a need for an official space for civil society in ACP-EU institutions. Via proper mechanisms for participation, ACP and EU civil society should be able to channel its opinions and concerns to joint institutions and national authorities. Moreover, the 2030 Sustainable Development Agenda also has clear commitment to the inclusion of civil society.

Currently there is a lack of transparency in ACP- EU institutions. It is possible to have public knowledge of the activities of the Joint Parliamentary Assembly, but there is rarely any communication about the activities/meetings/decisions of the Joint Council of Ministers and the Committee of Ambassadors. Civil society does not know what is happening in these institutions and is often excluded from any dialogue, despite the fact that the CPA foresees regular contact. There is a clear need for more transparency in the future partnership.

Linked to this request for transparency is the need for a mechanism to improve the weight of the joint institutional decision making. At the moment it is not clear what the impact is of the decisions and activities of the joint institutions in the partnership. Following the example of the JPA, which is a consultation but not a decision-making body, it seems the weight is rather limited. A clear mechanism to improve the weight of the joint decision-making would clearly contribute to the promotion of joint interests.

In the current partnership the costs for the joint institutions are quite high. Alternative options for less expensive institutions should also be explored.

37. Should a higher degree of self-financing of this functioning (ACP-EU Joint institutions and ACP secretariat) by the ACP States be required?

In order to increase the autonomy and independence of the ACP group, there will be the need for a higher degree of self-financing. This should however always be linked to support in domestic resource mobilisation.

In addition, this higher degree of self-financing would contribute to a more balanced relationship as the donor-recipient idea would be less strong.

Better adapted and more flexible development cooperation tools and methods

38. Is there added value in having a dedicated financing instrument in support of the ACP-EU partnership? If so, what are the reasons and how would it differ from other external financing instruments funded by the general budget of the Union? Is this instrument flexible enough, especially to address crisis situations? Can this instrument be deployed differently?

There should be a dedicated instrument in principle 'tailor-made' to the specificities of ACP countries. But this should be harmonized with other instruments (as already ongoing).

The key principles of the European Development Fund should be safeguarded:

- budgetised or not, the EDF should be dedicated to ACP or A+C+P countries (in silos) while ensuring integrity of funds;
- resources should be ring-fenced, in a way relevant to countries' needs;
- allocations should be identified per countries with funding dedicated to each particular strategy;
- principles of the CPA should also be kept for the revised instrument (equality of the partners and ownership of the development strategies; participation; pivotal role of dialogue and the fulfilment of mutual obligations and accountability and differentiation and regionalization).

The EDF has been somehow flexible: through the simple fact of including a B-allocation in every national or regional indicative envelope (which is not common to other instruments), as it can be seen by the allocation of total funds to ECHO whenever necessary (85% of ECHO's share of these funds had been already spent by the mid-term review of the 10th EDF). However, not all flexibility mechanisms have been proven successful, as the new FLEX (compensation tool for countries losing losses in exports of agricultural/mineral products) has showed to fail.

CONCORD would be eager to further discuss these principles and mechanisms should a possible discussion on budgetisation take place.

39. What is the added value of the EDF's co-management system involving national authorities in the programming and management of aid programmes, as compared to other EU cooperation instruments in non-ACP countries?

Co-management is key to ensure ownership of the partner country. Joint decisions enable ownership and ensure an equal partnership. But recent research (ECDPM, 11th EDF) has shown that the EU is still the dominating partner throughout the identification of priorities per country. This ownership aspect should be reinforced no matter the new configuration.

But negotiations under the EDF have been a slow process, when compared with other instruments that also entail a certain level of co-decision; such delay has been leading to low predictability of funds. It will hence be crucial to simplify existing procedures in the future EDF to ensure efficient co-management is in place

The identification and implementation of the new developments plans under the SDGs will be a good test for aligning co-management system with national strategies. In line with the principles of development effectiveness, the EU should not be deciding on the top issues or sectors it wants to support through its development programmes in ACP but should begin a multistakeholder dialogue to find out how best to support the implementation of SDGs according to country needs and gaps. The 17 goals are indivisible so it is not a question of cherry picking individual goals but agreeing where to prioritise over time and where support is most needed in the time frame of the programme. Again the role of civil society in dialogue, discussion, prioritisation and implementation with governments and donors will be fundamental to ensure a people-centred approach.

40. Does the current set-up of the programming process and implementation of activities lead to real ownership by the beneficiaries? What could be improved? How can the EU and Member States maximise the impact of joint programming?

The revised partnership needs to maintain the Agreement provision on civil society participation (regardless the new configuration) as a way to ensure that all, including the most vulnerable communities, are heard.

The current legal enshrinement of civil society as an actor in the Cotonou agreement is something specific to ACP-EU compared with other strategies and financial instruments. CSOs should be engaged in the process from the beginning: this includes political dialogue, programming of funds, implementation and review of programmes. In terms of programming, there is a specific civil society envelope within the development cooperation pillar of Cotonou which brings added value to ensure empowerment and effective engagement. The revised partnership needs to include formal mechanisms and sufficient resources that guarantee CS participation at all levels. In addition to keeping specific financial envelopes targeting civil society, concrete mechanisms to further participation should include: structured dialogue during or in advance of meetings of joint institutions, in line with what currently happens with the ASEAN and EU-CELAC relations; regular consultation with civil society throughout full process of identification of policies and implementation of programmes (this should applied both at EU and ACP level, as the EU has a role in promoting these regular contacts and in encouraging that these take place at the partner country level). Elements to ensure transparent and inclusive consultations at partner countries' level with CSOs can also be included in CSOs roadmap, in order to ensure EUD engagement.

41. Does the variety of existing tools adequately support the EU and ACP common principles and interests and are there gaps that should be addressed? How do you assess the effectiveness and efficiency of various implementation modalities?

Policy coherence for development (PCD) is one of the existing gaps under the partnership. This principle is taken forward in current article 12 of the Cotonou Agreement. PCD (or in fact shifting to policy coherence for sustainable development – PCSD) is identified as an important mechanism for improving the delivery of sustainable development and for the promotion and protection of human rights. The EU has to consider the impacts of all its policies on the achievement of sustainable development in and by other countries. Implementation of this principle is still weak and more political commitment is required at all levels and in all parts of EU institutions and Member States. There have been several examples of incoherencies between EU policies and development objectives, which include financing for development (and concurrent illicit financial flows); food and nutrition security; trade and climate change and natural resources. PCSD must hence be scaled up in the future partnership

Also, the intra-ACP programme under the EDF is supposed to further cooperation between the different regions, but it has failed to do so; even the recently approved programme under the 11th EDF seems to be more focused in tackling global challenges (in some cases in additionality with other instruments), which, albeit being common to all regions, do not necessarily promote cooperation amongst them. This undermines regional cooperation within the partnership. Plus there is no available information about how the different funding instruments complement each other, so it is not clear to validate respective effectiveness and efficiency.

While a proactive move towards sustainability and support for delivering the SDGs will be crucial, it is nonetheless governments which have adopted the goals and framework and governments who are the primary duty bearers. This should be born in mind when using modalities such as blending and public private partnerships (PPPs). Noting the importance given to innovative financial instruments and blending in order to leverage funds from the private sector, we need to find the right balance between both sources. Blending initiatives often lack transparency, and there is a need for respective disaggregated data, as well as monitoring of these initiatives to ensure their sustainability, economic effectiveness and poverty focus. Good, long term, sustainable development results should be the key objectives and the use of blending and PPPs must be based on this premise, in addition to human rights principles and equity outcome-oriented results. Transparency, inclusiveness and sustainable development criteria must be seen as more important than simple cost-effectiveness or potential leverage effects.

Trust Funds have been another type of modality given priority in EU development policy. While pooling funds in one mechanism might enable multiple donor response while avoiding duplication of efforts, recent examples have been raising several concerns, namely: quite often decisions of funds allocations is taken unilaterally; this implies diversion of funds from different instruments, possibly depleting them from enough resources; often unclear eligibility criteria and limitation of diversity of responses, namely

for CSOs (eg recently established Trust Funds).

Need to ensure that existing tools and modalities enable a multi-stakeholder approach that supports the revised partnership. This would also bring some flexibility as to which modality would have a more effective effect depending on the circumstances; eg budget support has been often a preferable modality when applied to basic social sectors, under which it is key to enable space for civil society.

A proper mix of aid modalities and their compliance with principles of transparency and access for all actors hence needs to be ensured throughout all mechanisms.