

# CONCORD recommendations to put People and Planet first in the future EU-ACP agreement

February 2018

## 1. The framework

The general framework with a common binding foundation and three comprehensive and adaptable regional compacts is welcomed. Indeed, it provides much needed balances: between predictability and flexibility on the one hand; and, on the other hand, between a shared set of principles and objectives - which pave the way for a common approach to the implementation of the SDGs -, and contextualised strategies at regional level.

The foundation should contain all essential and binding elements and should outline the obligations for both sides as well as the consequences of non-compliance.

We welcome the fact that many of these elements are included in the EC recommendation and that the foundation chapter lists the principles that should underpin the agreement, but we do think that some elements are missing and that the proposal could be stronger and more explicit on a number of them:

- The provisions relating to the institutional framework and the actors of the partnership should be reinforced in the common foundation to ensure that stable, harmonised and binding institutional structures and mechanisms are established. More specifically, the participation of civil society as an actor of the partnership should be established in the foundation through a specific article as is the case in the CPA (although we recommend to refer to civil society and its definition instead of non-state actors).
- We strongly believe the foundation should contain clear references to UN conventions, international law and to other international commitments that will apply to the foundation and the 3 regional compacts.
- Explicit references to accountability, monitoring and review mechanisms are necessary in addition to the appropriate measures and consultation foreseen in case of non-compliance with the essential and fundamental elements suggested in chapter 8.
- In particular, accountability mechanisms should also include formal complaints mechanisms accessible to civil society and citizens in cases of serious and evidenced breach of human rights' obligations by one of the parties or by a third party benefiting from the agreement (for instance through financing modalities or trade and/or investment agreements).
- The future agreement provides an opportunity to implement the TFEU Policy Coherence for Development obligation in a more concrete and binding way. We therefore welcome the fact that PCD is part of the foundation. We also recognise that Policy Coherence for Sustainable Development is a commitment for all in

Agenda 2030. However, the EU is first of all bound by the Lisbon Treaty article 208 which clearly states that “the Union shall take account of the objectives of development cooperation in the policies that it implements which are likely to affect developing countries”. When referring to PCD, the future agreement will have to be more explicit on obligations of the EU and on the concrete mechanisms needed to effectively solve spill-over effects within the institutional set-up and through political dialogue. The accountability mechanisms referred to in the previous paragraph could be part of such mechanisms.

- The principles of the current art 34-35 of the CPA should be reflected in the foundation of the future agreement in particular the taking into account of the different needs and levels of development of the ACP countries, the due regard for their political choices and development priorities and for their regional integration initiatives. Furthermore a clear linkage should be established between the foundation of the future agreement and current and future trade agreements (EPAs). This in order to ensure that the essential elements of the agreement will also apply to trade.
- In addition to the reference to SDGs implementation and poverty eradication as the primary objective, which we strongly support, we recommend to strengthen the promotion of integrated approaches throughout the partnership, by mainstreaming all three dimensions of sustainable development and the Agenda 2030 principles of “leave no one behind” and promoting “wellbeing within planetary boundaries”, across the entire agreement and the 6 strategic priorities.
- Finally, we do suggest to include in the foundation a list of transversal issues that cross-cut the 6 priority areas both at foundation level and in the 3 regional compacts. These issues include amongst others: human rights, gender equality, disability, inclusiveness and non discrimination, conflict prevention, youth, environmental sustainability and climate change. Only by respecting these cross-cutting issues in all strategic priorities at all levels the future agreement will contribute to the attainment of the Sustainable Development Goals.

## 2. The strategic priorities

We did notice that there is a discrepancy between the language used in the foundation to describe the 6 strategic priorities and the language used in the 3 regional compacts, both in terms of content and strength. If the 3 regional compacts result from the sum of the two, there is a need to avoid discrepancy, incoherence, overlaps and difference of language (liability). Hence we would recommend to shorten the chapter relating to strategic priorities in the foundation and to focus it on the overarching objectives and principles that should underpin these priorities.

Moreover, the EC proposals on the 3 regional compacts are very detailed and prescriptive, which is concerning at the present stage of the process. Concrete priorities and actions to be undertaken at regional level should result from the negotiations and take the interest and objectives of both parties fully into account. A two-step approach could better serve this



purpose, starting with an agreement on the foundation and negotiating the 3 regional protocols in a second stage with interested parties.

Despite this discrepancy, we recognise that there are many positive elements in the 6 strategic priorities that should be kept. We very much appreciate that human development and dignity is one of the 6 priorities. We also welcome the focus of Title III on recognizing the interrelated challenges and threats that climate change and environmental degradation pose to sustainable development and human wellbeing and the intention of prioritizing action to address both challenges in line with Agenda 2030 and the Paris Agreement commitments. In addition to targeted action on climate change mitigation and adaptation and to ensure sustainable management and use of natural resources, we strongly support a commitment to mainstream environmental sustainability and climate change objectives into all policies, plans and interventions across the future agreement.

However, we do notice that these positive elements grow weaker when reading the elaboration of the strategic priorities. It seems that although the attainment of the Sustainable Development Goals is considered the key objective, we miss the integrated approach of Agenda 2030 throughout the compacts and the 3 dimensions of sustainable development are treated separately. In this respect the proposal follows the traditional silo approach. At the same time certain important elements that are mentioned need to be strengthened; poverty eradication, in particular, evaporates when elaborating more on strategic priorities. Therefore we suggest that cross-cutting and transversal issues should be defined in the foundation and reflected in all 6 strategic priorities and at all levels of action. Furthermore, the concept of sustainable and inclusive growth should be replaced by sustainable and inclusive economic development, which goes beyond growth as measured by an increase in GDP.

We are particularly concerned by the fact that the titles relating to “Inclusive sustainable economic development” in the 3 regional compacts are particularly prescriptive and interfering with domestic economic and trade policies to the extent that they would prejudice ACP positions in possible EU-ACP trade negotiations or that they could turn the future Agreement in a mandate for compulsory negotiation of deep and comprehensive trade agreements.

### **3. The role and space of Civil Society**

We welcome the fact that Civil Society (CS) is mentioned in different parts of the document although the provisions relating to CS are too weak and vague to bring about the required change to counter the shrinking space for CS, enhance EU’s and ACP’s accountability through citizens’ engagement, and harness the full potential of CSOs to carry out both the SDGs and the strategic objectives of the agreement. We believe that CS participation should take place

at different levels, ranging from national to sub-regional, continental and all-ACP, and that such participation should be established through the relevant mechanisms.

The engagement with civil society should be built around the recognition of the different roles it plays: advocates and watch-dogs, conveners, service providers, implementer as well as actor of change and development. Its role as full-fledged actor of the agreement should be scaled up. All of this, in turn, requires adequate funding and support for capacity and institutional building, in particular in ACP countries, including specific funding to allow CS bi-regional dialogue, exchange and joint positioning

In this light, we propose:

1. A specific article should be added to the foundation, which clearly defines CS' role and space in the agreement and recognizes CS as an actor in its own right, different from the private sector or local authorities. Therefore, we recommend explicitly to refer to the UN or EU definition of civil society (2012 Communication).
2. Meetings of and with civil society may be foreseen at the level of the regional compact. However, our experience with the EU-Africa partnership shows that without a binding commitment, this will not happen in a proper, regular and meaningful way. A clear reference to civil society participation as a binding element of the agreement should therefore be a red-line in the EU negotiating mandate.
3. The foundation should make clear that CS representatives have to be invited to all meetings of the joint official bodies, in which the implementation, monitoring and review of the 3 protocols are discussed (following the example of trade agreements) as well as in order to take part in the human rights dialogue. We therefore suggest the creation of one standing CS body per regional protocol. The principle of their creation should appear in the foundation chapter while their operationalisation should be foreseen in the regional protocols. These standing bodies should have three objectives: 1/ allowing for a meaningful, standing and formal dialogue with the EU and the A/C/P and their joint institutions, 2/ increasing the transparency and accountability on the decision-making and the agreements' implementation and 3/ allowing for EU-A/C/P civil society dialogue and joint positioning.
4. Joint meetings between the 3 bodies should be envisaged in parallel of the relevant official processes (EU-ACP ministerial or summit, review of the agreement). This would allow to combine structured dialogue through regional platforms with national and all ACP level dialogue.
5. Both Civil Society and Parliament meetings can be connected to Council meetings and this can have a strong effect if real inputs can be made and taken into consideration. In this case, the disappearance of the Joint Parliamentary Assembly at an all ACP level would not have to be a problem. However, strong political will and a good institutional framework are necessary in this regard and the experience of the EP-PAP meetings before summits is not convincing.
6. Specific attention should be given to enable the participation of grassroots organisations. The agreement should include the principle of citizen's and/or people's

participation in all aspects and at all levels of the agreement, in particular the local level and foresee a proper mechanism to facilitate this participation.

7. CS participation and exchanges should also be promoted through multi-stakeholders' platforms, including online exchange forums.



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