

**INSTITUTIONAL CAPACITY AND MULTIPLE CONDITIONALITY  
IN ACP-EU DEVELOPMENT COOPERATION**

Thesis presented for the degree of

Ph.D (Econ.)

of the University of London

by

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The negotiations for the Mid-Term Review of the Fourth Lomé Convention marked the introduction of multiple conditionality - economic adjustment and good governance - into the Lomé relationship. It placed additional demands on the two parties, giving rise to the essential concern of this thesis: do the two sides possess the requisite institutional capacity to meet those demands?

The introduction was not a sudden development. The origins of multiple conditionality lay in the Pisani Memorandum and its proposal of policy dialogue. The path from the proposal to multiple conditionality was assisted by developments within the Lomé relationship, including the unintended effects of ACP initiatives. This thesis is thus, in one sense, the history of the Memorandum's legacy of inverted conditionality through policy dialogue.

It is also an analysis of the capacities generated by the Convention and their applicability to multiple conditionality. My analysis of bargaining, operational and instrumental capacities demonstrates a weak ACP capacity and an asymmetrically greater EU capacity. My initial conclusion is that the EU is much more capable of meeting the demands of multiple conditionality. However, it too faces limits on its capacity, especially in dealing with the sociopolitical aspects of governance.

This recognition highlights an ignored factor: there is a second legacy of the Pisani Memorandum. In addition to the *instrument* of policy dialogue, the Memorandum identified institutional capacity as the

*means* to help overcome the problems of development. The new tale of two legacies illustrates an EU emphasis on policy control at the expense of capacity building. It has failed to perceive the importance of the link, in the Pisani Memorandum, between the instrument and the means. It forces me to amend my initial conclusion: neither side is adequately prepared for the demands of multiple conditionality.

## **Acknowledgements**

As a mature student, I have found the writing of this thesis to be both daunting and satisfying. The stress lay in the solitary exercise which it proved to be and in the difficulty of returning to academic criteria, long deserted for a professional life. Nonetheless, it has proved satisfying because I have finally fulfilled an intention which I have had for longer than discretion permits me to say. It is an ambition which I have periodically sought to fulfil but have had to put aside for various reasons.

Despite the sole row which I have furrowed, I have had valued contributions and assistance from several sources. First, I must thank my supervisor, Professor James Mayall, who has demonstrated remarkable patience, quiet wisdom and skilled guidance during what must have seemed an overly long period. The officials in DG VII of the European Commission proved extremely helpful and willing to lend their time for interviews. Peter Pooley, then Deputy Director-General, was kind enough to steer me to the relevant officials.

The officials of the ACP Secretariat were also quite helpful. The assistance of the Deputy Secretary-General, Carl Greenidge, stands out for more than one reason. He was instrumental in arranging my visits and interviews with both the ACP and Commission officials. In the latter respect, I must express a debt of gratitude to his secretary, Pat Goodwyll, who proved most adept at arranging my schedule of interviews while I was in Brussels. Carl also offered insightful contributions to my research during my discussions and

interviews with him.

There were also several individuals, too many to mention, who provided useful assistance in my work and to them all I offer my appreciation. There is one individual of whom I must take note, given the nature of my work involving the ACP. He is the late Ambassador Raymond Chasle of Mauritius whom I interviewed in September, 1995. Most tragically, he died in early 1996. He was an ACP institution, having been involved from the outset of Lomé. His loss is a personal tragedy for many members of the ACP Group. It also leaves an unfathomable void in the institutional memory of the Group.

This thesis is dedicated to three generations of female members of my family. First, it is dedicated to my mother, Julia Matheson, who has always retained a quiet desire that I should begin, and complete, my research. It is a desire which she has communicated to my wife, Susan Belgrave, who is the true heroine of this research as she has encouraged, without pressure and supported, without complaint. It goes without saying that it was her sustenance which took me through the periods of thesis fatigue. Finally, it is dedicated to my daughter, Alicia, who has somehow managed not to be distracted by my efforts or by the anomaly that, at my age, I also attended "school".

## **List of Appendices**

1. Member states of the African, Caribbean and Pacific Group by regional groups
2. Member states of the European Union



## **Abbreviations and Acronyms**

ACP	African, Caribbean and Pacific Group
AASM	Association of African states and Madagascar
CAO	Chief Authorising Officer
CARICOM	Caribbean Community
Cariforum	Caribbean Forum
CDI	Centre for the Development of Industry
CFTC	Commonwealth Fund for Technical Cooperation
COA	Committee of Ambassadors
COM	Council of Ministers
COREPER	Committee of Permanent Representatives of member states of the European Union
CTA	Technical Centre for Agriculture and Rural Cooperation
DG	Directorate of the European Commission
DG VIII	Development Directorate
EC	European Communities
ECOWAS	West African Economic Community
Ecu	European currency unit
EDF	European Development Fund
EEC	European Economic Community
EIB	European Investment Bank
EP	European Parliament
EU	European Union
FMO	Framework of mutual obligations
GATT	General Agreement on Tariffs and Trade
G-77	Group of 77
GSP	Generalised System of Preferences
IPF	Indicative programming figure
Lomé	ACP-EC Convention of Lomé
MEP	Member of the European Parliament

MFI	Multilateral Financial Institution i.e., World Bank or International Monetary Fund
MFN	Most-favoured nation
NAO	National Authorising Officer
NGO	Non-governmental organisation
NIP	National Indicative Programme
ODA	Overseas Development Agency
OECD	Organisation for Economic Cooperation and Development
PMDT	Processing, marketing, distribution and transport of commodities
RIU	Regional implementation unit
SADC	Southern African Development Community
SAS	Structural adjustment support programme
SPA	Special Programme of Assistance for Africa
SPF	South Pacific Forum
Stabex	System for the stabilisation of export earnings from agricultural commodities
Sysmin	Special financing facility for mining products
UN	United Nations
USAID	United States Agency for International Development
WTO	World Trade Organisation

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## **INTRODUCTION**

The negotiations on the Mid-Term Review of the Fourth Lomé Convention (Lomé IV), between the fifteen member states of the European Union (EU)<sup>1</sup> and the seventy African, Caribbean and Pacific states (ACP) Group of states<sup>2</sup> were concluded in June, 1995. The negotiations were notable for two features. First, they were the first negotiations in mid-Convention as the duration of the Convention had been extended to ten years from its traditional five years. Secondly, and of more relevance to this study, the agreed provisions introduced a series of conditional elements into the Convention for the first time.

### **NATURE OF CONCERN**

The new provisions, emanating from the Mid-Term Review, were explicit in their conditions. They identified, first, the basic link between development cooperation and good governance:

"... development policy and co-operation shall be

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<sup>1</sup> With the entry into force of the Maastricht Treaty on 1st November, 1993, the common terminology for the Europe of the Fifteen is the European Union of which the European Community remains one of three pillars. The Lomé Conventions pre-date the European Union and were all signed with the European Communities (EC). The Conventions themselves were titled the ACP-EEC Conventions and the European Economic Community (EEC) was therein referred to as the Community. There thus exists a number of references to the EEC, EC and EU in dealings with the ACP. I will, perforce, have to use all these terms but, in the name of continuity, I will refer to the Community most often. See Appendix 2 for a list of member states.

<sup>2</sup> See Appendix 1 for a list of the members of the ACP Group.

closely linked to respect for, and enjoyment of, fundamental human rights and to the recognition and application of democratic principles, the consolidation of the rule of law and good governance."<sup>3</sup>

They highlighted the need for economic liberalisation:

" They (The two Parties) recognize the importance of promoting, in ACP States, an environment favourable to the development of the market economy and of the private sector."<sup>4</sup>

Finally, the provisions called for the imposition of sanctions should the conditions not be honoured:

" If one Party considers that another Party has failed to fulfil an obligation in respect of one of the essential elements referred to in Article 5, it shall invite the Party concerned ... to hold consultations with a view to assessing the situation in detail and, if necessary, remedying it."<sup>5</sup>

... if in spite of all efforts no solution has been found, or immediately in the case of urgency or refusal of consultations, the Party which invoked the failure to fulfil an obligation may take appropriate steps, including, where necessary, the partial or full suspension of application of the Convention to the Party concerned."<sup>6</sup>

The inclusion of such multiple conditionality<sup>7</sup> in

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<sup>3</sup> Article 5.1, Lomé IV Convention as revised by the agreement signed in Mauritius on 4 November 1995, *the Courier* No. 1, January-February 1996.

<sup>4</sup> Article 6.2, Lomé IV Convention as revised..., op. cit. The parenthesis is mine.

<sup>5</sup> Ibid., Article 366a.2.

<sup>6</sup> Ibid., Article 366a.3.

<sup>7</sup> The term "multiple conditionality" is borrowed. See Joan M. Nelson and Stephanie J. Eglinton, *Global Goals, Contentious Means: Issues of Multiple Aid Conditionality* (Washington, D.C.:

the Lomé Convention represented a definitive change in the nature of the Convention from two perspectives. First, the insertion of political conditions in the new provisions signalled a deviation from the basic tenets of the Convention which have dated from the inception of Lomé in 1975. Secondly, the conclusions of the Review added, to the customary issues of trade and aid cooperation, several new areas of concern relating to reform.

The basic tenets of Lomé might have varied in their written form in the different texts of the Conventions but they had been the underlying, *constitutive* principles of the relationship. I refer to the following: equal partnership; mutual interest; sovereignty; and above all, the right to determine one's own political, social, cultural and economic policy options.

In Lomé I, the preamble to the document spoke of the parties being "anxious to establish, on the basis of complete equality between partners, close and continuing cooperation...".<sup>8</sup> Article 40, paragraph 3 of Title IV on Financial and technical cooperation in the same Convention noted that the cooperation "shall complement the efforts of the ACP States and shall be adapted to the characteristics of each of the said States".

Lomé II reiterated the commitment in its

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Overseas Development Council, 1993). I return to the concept in Chapter 1, Section 1.1.1.

<sup>8</sup> The text of Lomé I is contained in *The Courier*, No. 31 - Special Issue - March, 1975.

preamble to equal partnership in order to "reinforce" the continuing cooperation. In the provisions governing Financial and technical cooperation in Title VII, there was a similar paragraph to that in Lomé I. Lomé II went further in its commitment. Article 91, paragraph 1 stated that the objective should be to "promote the economic and social development of the ACP States on the basis of the priorities laid down by those States...".<sup>9</sup>

The two subsequent Conventions, Lomé III and IV, were even more explicit in their espousal of those principles. They were located in Chapter 1 on the Objectives and Principles of Cooperation. Article 2 of that Chapter noted that the ACP-EEC cooperation shall be exercised on the basis of the following fundamental principles:

- equality between partners, respect for their sovereignty, mutual interest and interdependence;
- the right of each state to determine its own political, social, cultural and economic policy options;
- security of their relations based on the "acquis"<sup>10</sup> of their system of cooperation.

Article 3 also asserted that the ACP states "shall determine the developmental principles, strategies and

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<sup>9</sup> The text of Lomé II is contained in *The Courier* ACP-EEC No. 58 - Special Issue - November, 1979, p. 23.

<sup>10</sup> In the context of the Lomé Convention, the "acquis" refers to the benefits acquired by the ACP in the relationship. These are considered by the ACP as the basic elements of the Convention which are to be maintained, or improved, in future Conventions.

models for their economies and societies in all sovereignty".<sup>11</sup>

The conditional provisions of the Review not only proposed the addition of new areas of reform but those areas covered several spheres. These spheres included the economic (privatisation and stabilisation); social (distributive justice and decentralisation); political (democratisation and good governance); and constitutional (rule of law).

These changes in the nature of Lomé demanded a series of appropriate responses from both parties to the Convention. They also raised the intriguing question of how well would the two sides manage the new tasks which conditionality had imposed on them. It is this second implication of conditionality which generates the central concern of this study: *do the two sides possess the requisite institutional capacity to meet the additional demands of cooperation as posed by multiple conditionality?*

## **ORGANISATION**

I have divided the study into three distinct but interrelated sections. In the first, I examine the two main concepts - institutional capacity and multiple conditionality - which are the main concerns of this thesis. I identify the process and nature of the changes which characterise the introduction of multiple conditionality into the Lomé relationship. I

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<sup>11</sup> See *The Courier*, Africa-Caribbean-Pacific - European Community, No. 89, January-February, 1985 for the text of Lomé III and *The Courier*, No. 120, March-April, 1990 for that of Lomé IV.

describe the series of steps which marked the EU's progress from a "dialogue of reason" to the stage of conditionality. I also explore the unwitting contributions of the ACP to the process.

My treatment of the process thus concentrates on four areas of Community policy: the struggle for "policy dialogue" in the period before the re-negotiations for Lomé III; the inclusion of structural adjustment provisions in Lomé IV; the application of stringent criteria in the use of Stabex provisions in Lomé IV; and the emergence of multiple conditionality. The ACP contributions to the process consisted of several efforts at expanding the Convention to include sociocultural and sociopolitical issues. They served, first, to weaken the identification of the Convention as a "trade and aid" package. Secondly, when the interpretation of the inclusions took on unintended forms, they also helped impose new measures of potential conditionality on the ACP. The origins of conditionality are explored as a process through the use of two contrasting but parallel perspectives on their development.

In the second section of the research, I assess the capacity generated during the relationship to determine whether it would assist the ACP states or the EU to meet the new demands required by the introduction of multiple conditionality. I look, therefore, at two general areas of capacity, the *residual* and the *instrumental*. *Residual* capacity refers to the capacity generated during the Lomé relationship and preceding the introduction of multiple conditionality. It is an assessment of the capabilities acquired from the experiences of the

relationship. It comprises two specific elements which I term *bargaining* and *operational*.

Based on the experience of similar exercises at structural adjustment,<sup>12</sup> the nature and scope of conditionality depend upon the terms which have been agreed by the two sides through bargaining. The ability of either party to obtain preferred objectives is a function of their relative *bargaining* capacities. Those capacities are not reflective of the relative power of the two sides. Clearly, that of the EU would be disproportionately greater in financial and technical resources as well as in other measures of power. Thus far, those elements of power have not been a common feature of the Conventions and they are likely to be no more evident on the issue of conditionality. Thus, I am not discussing relative capacity *per se* but, rather, the respective negotiating capacity which has been developed during the relationship.

The second aspect of *residual* capacity, the *operational*, is that generated by the specific institutional development evident in the implementation of the four Lomé Conventions so far. I examine any evaluations which may have been made of those programmes to determine if areas of deficiency or possible improvement were identified and addressed. I also look at the role of certain institutional arrangements, created to help execute the programmes, to determine whether and how they may have contributed

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<sup>12</sup> See, for example, Paul Mosley, Jane Harrigan and John Toye, *Aid and Power: The World Bank in Policy-based Lending* (London & New York: Routledge, 1991).

to the generation of capacity.

*Instrumental* capacity which is the third aspect of capacity, but the second general area, covers the measures which have been elaborated to help implement the conditionality programme. They are the measures intended to help build the capacity required to achieve the reforms sought by the programme. The third and final section consists of the analysis and conclusions which I draw from the research.

## **STRUCTURE**

Part One of the study consists of Chapters **1** and **2**. Chapter **1** deals with the main concepts and existing literature while Chapter **2** traces the origins of multiple conditionality in Lomé. Part Two covers the analysis of capacity generation and comprises Chapters **3** to **6**. Chapter **7** makes up Part Three and contains the analysis and conclusions of this thesis.

Chapter **1** lays out the analytical framework of the thesis. It examines the concepts of institutional capacity and multiple conditionality. It looks at several relevant areas of the literature. It notes that, while the main concern of this thesis has not been addressed, there does exist a body of literature which offers some assistance.

In Chapter **2**, I look at the origins of conditionality and draw a distinction between the widely varying perceptions of events which the two sides had. In so doing, I examine the evolutionary path towards conditionality which the EU set in train



with its quest for "policy dialogue". I also show that the same path, for the ACP, took on less sombre tones and, as a consequence, its premonitions were either ignored or misinterpreted. I also highlight a series of initiatives made by the ACP which, unwittingly, accentuated the move towards conditionality by weakening irreparably the constitutive principles on which Lomé was founded.

Chapter **3**, the first in Part Two, introduces the first of the two aspects of residual capacity i.e., bargaining capacity. It offers a look at the respective negotiating strengths of the two Groups as those strengths have developed during the relationship. It is out of the bargaining process that the parameters for conditionality and its agreed form will arise. The Groups are analysed in terms of what countervailing power they may have acquired or foregone i.e., any increase in external profile or influence which, in turn, might have helped augment their relational capacity.

In Chapter **4**, the analysis of bargaining capacity is tested briefly against the results of the initial negotiations on conditionality during the Mid-Term Review. The analysis also allows me to examine one aspect of bargaining capacity i.e., expectations, which can only be examined in the context of a specific set of negotiations.

Chapter **5** discusses operational capacity, the second aspect of residual capacity. I examine the record of capacity building during the Lomé Conventions to see what has been the contribution of the relationship to the existing capacity of the ACP

participants. I assess the effect of Convention arrangements. I also explore the impact of Lomé operations on the functioning of the major ACP and EU agents of cooperation. Chapter 6 covers instrumental capacity. It identifies the elements built into the proposed regime of conditionality which are intended to enhance the existing capabilities of the recipient states.

Chapter 7, which makes up Part Three, provides the analysis and conclusions of the study. It looks at the fundamental questions to which the research initially gave rise and determines how those questions have been answered. I also address such issues as whether either side is equipped to handle the management of the new programme and what are the implications of the new tasks on capacity for Lomé generally.

## **SOURCES**

I drew on three main sources for research purposes: a combination of primary sources in the form of published material; interviews with figures involved on both the ACP and EU sides; and secondary sources. The primary sources consisted of published documentation available on policy formulation as well as any unpublished but available documentation which can be consulted by researchers. Lomé and EU policies have been analysed in great detail over the years so there does exist a base of secondary material, in the form of previous analytical work on many areas. Given my own institutional focus, I drew on those sources for analytical purposes.

I interviewed several officials on both sides as part of my research. In the case of the EU, I spoke to the substantive Director-General during the period relevant to my work, the negotiations and implementation of Lomé III and IV. I spoke to one of his two Deputy Directors-General who later served as the acting Director-General during the Mid-Term Review. I also interviewed several other senior officials involved in the operational aspects of the Convention and in the formulation and pursuit of conditionality. On the ACP side, I interviewed senior officials of the ACP Secretariat, including the Deputy Secretary-General who was then functioning as Officer-in-Charge. I also spoke to several diplomatic representatives of the ACP states. Both the representatives and officials offered valuable insights into the working of the ACP Group over the years. It is they who were the sources of my frequent observations on the positions held by groupings of ACP states during the Lomé relationship.

**PART ONE**

## **CHAPTER 1**

### **CONCEPTS AND LITERATURE**

This Chapter looks at the analytical framework which guides this thesis. First, I define the two principal concepts - institutional capacity and multiple conditionality - which are the focus of my research. I then look at some general issues which arise in the course of my work. In attempting to develop an analytical framework, it is readily apparent that existing theory does not adequately address my concerns. However, there are bodies of existing literature which cover areas of relevance and thus offer some useful assistance.

#### **1.1 THE TWO CONCEPTS**

This thesis concentrates on two main concepts, institutional capacity and multiple conditionality. They are not generally familiar concepts. I need, therefore, to clarify the concepts as they are used in the thesis. They will be dealt with in reverse order as the second, multiple conditionality, is less difficult to define.

##### **1.1.1 Multiple Conditionality**

Conditionality, in its economic variant, is not a new or unusual phenomenon. Structural adjustment or macro-economic stabilisation has been termed first-generation conditionality. It emerged in the 1980s as a staple of most forms of development assistance. It was common to both the programmes of multilateral

financial institutions (MFIs) and bilateral donors. Nor were the sociopolitical elements of good governance novel features in such assistance. They have been categorised as second-generation or political conditionality.<sup>1</sup> They were a more recent addition to structural adjustment programmes but they had long been an aspect of foreign aid. The Marshall Plan and its commitment to ideological, economic and security interests have been cited as one example of aid given on political terms.<sup>2</sup>

The characteristic feature of conditionality has been its emergence in two stages, the economic followed by the political. The Lomé experience has been different for two reasons. The first is that there was never a first-generation, or economic, conditionality in ACP-EEC cooperation. Structural adjustment was an unknown factor until Lomé IV in 1990. When it was raised at that point, it was cast as a programme which was supportive of, not conditional on, ACP efforts. It was a programme designed to support the social elements of programmes being undertaken by ACP states with the MFIs.

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<sup>1</sup> A comprehensive treatment of both first- and second-generation conditionality is offered by Olav Stokke, "Aid and Political conditionality: Core Issues and State of the Art" in Stokke (ed.), *Aid and Political Conditionality* (London: Frank Cass, 1995), EADI Book Series 16. Two other useful perspectives on conditionality are offered by Jane Harrigan, "Alternative Concepts of Conditionality", *Manchester Papers on Development: Vol.IV No.4*, Oct. 1988, pp. 451-471 and by "Aid and Political Reform", ODI Briefing Paper, January 1992.

<sup>2</sup> See Edward Clay, "Conditionality and Programme Food Aid: From the Marshall Plan to Structural Adjustment", cited in Stokke, *Aid and Political Conditionality...*, op. cit., pp. 4-6.

The second difference follows from the first. The introduction of conditionality, during the Mid-Term Review, saw the amalgam of both stages of conditionality in one series of concurrent provisions. The comprehensive nature of the Lomé provisions<sup>3</sup> calls for the simultaneous application of economic, social and political conditionalities which are aimed at systemic reform in recipient countries. It is for this reason that I prefer the term "multiple conditionality" in this thesis. Conditionality in the Lomé context is not divided by generation or stage. It also encompasses more than mere political conditions.

### **1.1.2 Institutional Capacity**

It is generally recognised that strengthening the capacity of developing countries is an important component of development programmes and of structural adjustment. This fact has been emphasised by the multilateral financial institutions (MFIs).<sup>4</sup> It has also been recognised by the Community as a critical element of its own conditionality programme for the ACP states.<sup>5</sup> The need for reflection arises from the

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<sup>3</sup> See the **Introduction** for a description of the conditions.

<sup>4</sup> See World Bank, *A Framework for Capacity Building in Policy Analysis and Economic Management in Sub-Saharan Africa* (Washington, D.C.: World Bank, 1990). See also Edward V.K. Jaycox, "Capacity building: the missing link in African development", *The Courier* no. 141, September-October, 1993. Mr. Jaycox was the Vice-President, Africa Region in the World Bank.

<sup>5</sup> See, for example, European Commission, *The Design of Economic Reform in the Context of Political*

nature of the capacity which needs to be built or strengthened. In both instances mentioned above, the focus has been on strengthening organisations through public sector reform.

The extension of adjustment programmes to encompass sociopolitical reform suggests that the tasks demanded by such reform are more complex. They must go beyond the traditional institution-building or capacity-building of MFI programmes to include the wider issue of how to build the institutions which support social and political reform. Institutional capacity, as a concept, thus signifies more than the capacity of organisations which pursue certain roles or practices. It also covers the capacity of institutions which are based on principles which often underpin the organisations. The latter set of institutions are based on an appreciation of social structure and include the institutions of political life.<sup>6</sup>

One example of the later type of institution is provided by the quest for democratisation which is an essential element of sociopolitical conditionality. Its importance to this study of EU-ACP relations is

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*Liberalization: Findings and Conclusions from Case Studies* (December, 1994: Paper presented for the Meeting of the Special Programme for Africa in January, 1995). I cover the Community's appreciation of capacity in greater detail in Chapter 6.

<sup>6</sup> This point is discussed in detail by John Toye. See Toye, *Dilemmas of Development*, Second Edition, (Oxford, UK & Cambridge, USA: Blackwell, 1993), pp. 146-150. He argues that structures - social, political and economic - have to be reintroduced into the analysis of development.



demonstrated by the case of Haiti. In that case, the holding of the first democratic exercise of the franchise signalled, to most observers, the enshrinement of the democratic process. That assumption was rapidly undermined by the re-introduction of authoritarian rule through a military coup. Haiti was subsequently suspended from the Lomé Convention until its lawful President was restored to office.

There is a valuable lesson to be gained from the Haitian experience. It is that the exercise of the franchise becomes an institution of democracy only after it has been established as continuous practice i.e., as a principle. The initial task is the scheduling of free and fair elections but there is a secondary, and probably more crucial, concern. It is whether the fundamental principle of electoral change, which goes beyond the initial exercise of the franchise, can be rapidly established. The principle is based on the institutionalisation of the tradition of free and fair elections, as demonstrated by a history of practice of such elections. I concede that it is clearly not easy to fashion indices of measurement for principles but time is obviously an important factor. However, the task cannot be evaded merely on the grounds of complexity.

The definition of institutional capacity rests on the question of what constitutes an *institution*. The study of institutions has long detained social scientists and has become more topical in recent years. The study has been variously titled in different disciplines and has been more developed in some than in others. It encompasses the new

institutional economics;<sup>7</sup> the positive theory of institutions in political science;<sup>8</sup> regime theory and institutionalism in international relations;<sup>9</sup> and the new institutionalism in sociology.<sup>10</sup>

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<sup>7</sup> See, for example, Douglass C. North, *Institutions, Institutional Change and Economic Performance* (Cambridge: Cambridge University Press, 1990) and Vincent Ostrom, David Feany and Harmut Picht (eds.), *Rethinking Institutional Analysis and Development* (San Francisco: International Centre for Economic Growth, 1988).

<sup>8</sup> The work of Terry M. Moe and Kenneth A. Shepsle offers a useful guide. See Moe, "Political Institutions: the Neglected Side of the Story", *Journal of Law, Economics and Organization*, Vol. 6, Special issue, 1990, pp. 213-253; Moe, "Politics and the Theory of Organization", *Journal of Law, Economics and Organization*, Vol. 7, Special Issue, 1991, pp. 106-129; and Shepsle, "Studying Institutions: Some Lessons from the Rational Choice Approach", *Journal of Theoretical Politics*, Vol. 1, 1986, pp.131-147.

<sup>9</sup> The pioneering text on regime theory is Stephen D. Krasner(ed.), *International Regimes* (Ithaca, New York: Cornell University Press, 1983). The work on institutionalism is varied. See, for example, Robert O. Keohane, "International Institutions: Two Approaches", *International Studies Quarterly*, Volume 32(4), December 1988, pp.379-396; Keohane, *International Institutions and State Power* (Boulder, Colorado: Westview Press, 1989); Oran Young, "Political Leadership and Regime Formation: On the Development of Institutions in International Society", *International Organization*, Volume 45, Number 3, Summer 1991, pp. 281-308; John Gerard Ruggie (ed.), *Multilateralism Matters: the Theory and Praxis of an Institutional Form* (New York: Columbia University Press, 1993); and Friedrich Kratochwil and John Gerard Ruggie, "International Organization: A State of the Art on an Art of the State", *International Organization*, Volume 40, Number 4;, Autumn 1986, pp. 753-775.

<sup>10</sup> A comprehensive treatment is given by Walter W. Powell and Paul J. DiMaggio (eds.), *The New Institutionalism in Organizational Analysis* (Chicago: The University of Chicago Press, 1991). It offers an

Unlike the other disciplines, the study of institutions in international relations is much better developed theoretically than it is empirically. Given this lack of development, it is perhaps surprising that it is the field of international relations which has provided me with the most suitable definition of institutions. The working definition for the purposes of my analysis is drawn from Wendt and Duvall: "institutions are coherent sets of principles that structure and organise ensembles of practices."<sup>11</sup>

As was gained from the experience of Haiti and democratisation, the institutionalisation process depend on practices being pursued constantly until they have become principles. Secondly, I also have to examine institutional capacity to meet sociopolitical reform. In other words, institutional capacity in this study goes beyond the strengthening of formal bodies or entities, whether public or private. It must also encompass the inculcation of the beliefs and principles which sustain those formal entities.

## 1.2 ISSUES ADDRESSED

The initial perception of the introduction of conditionality is that it represented an abrupt change

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excellent overview of the study of institutions in the various disciplines in Powell and DiMaggio, "Introduction", pp. 1-38.

<sup>11</sup> Alexander Wendt and Raymond Duvall, "Institutions and International Order", p.60 in Ernst-Otto Czempiel and James N. Rosenau (eds.), *Global Changes and Theoretical Changes: Approaches to World Politics in the 1990s* (Lexington, Mass. :Lexington Books, 1989).

in the traditional ACP-EU relationship. This perception is substantiated by the insertion of the sociopolitical elements of conditionality. Certainly, from an ACP perspective, the introduction was unexpected, even unilateral. Nonetheless, a closer observation of the relationship reveals clear differences in assessment between the two sides. They help to reveal divergences in perception which haunt the relationship. The divergences serve to explain both the emergence of multiple conditionality and the route along which it travelled.

My own contention is that the emergence of multiple conditionality was the outcome of a process of events, commencing with the EU's advocacy of "policy dialogue", in advance of the negotiations for Lomé III. The process was also inadvertently assisted by misdirected ACP initiatives. The origins of conditionality were not, initially, fully clear to the Community or its officials. The ACP Group, therefore, could possibly be forgiven its failure to detect the evolution of the process.

A series of questions, therefore, arise for my thesis:

(a) What were the origins of conditionality? Did they represent an abrupt change or an evolutionary process? If the latter, what was the nature of the process as exemplified by the stages?

(b) What are the demands of multiple conditionality? Are the recipients wholly captive of structural power or is there scope for manoeuvre? How do recipients mobilise for such manoeuvring and what

capacity do they possess?

(c) What are the forms of capacity involved and what lessons as to their potential value can be gathered from the experiences of Lomé?

Each of these questions is addressed in the thesis as the elaboration of the structure has shown, with the primary focus on the forms and assessment of capacity.

### **1.3 ANALYTICAL FRAMEWORK**

The issue of institutional capacity, in its wider sense<sup>12</sup> and in the context of multiple conditionality, has not been treated in the existing literature. This is possibly due to the novelty of the area and to the limited history of experience available for empirical study. The main theoretical approaches are also not directly applicable to the concerns of this thesis. However, there has been some treatment of related topics which does offer some assistance.

#### **1.3.1 Limitations of Theory**

My thesis is not an exercise in structural realism or in rational choice theory. Both approaches suffer from limitations in dealing with my chosen topic. A structural realist would seek to explain the emergence of multiple conditionality in Lomé as a

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<sup>12</sup> I am referring here to the inclusion of both the technical and administrative aspects of organisational capacity and the sociopolitical dimensions needed to address the demands of governance.

reflection of the asymmetrical power<sup>13</sup> wielded by the Community in the relationship. Based on this perspective, conditionality would be an unavoidable imposition facing the ACP states.

The experience of countries pursuing structural adjustment indicates that there might well be limits to structural power, at least in the area of economic reform.<sup>14</sup> The success of that reform depends greatly on the compliance of the state undergoing the programme, through its "internalisation" or "ownership" of the provisions. Reform thus requires both the donors, or those imposing conditions, and the recipients to come to a form of agreement on the conditions. This process of clarification allows the recipient state to enter into a bargaining process. It can do so at three stages of the conditionality programme: at the stage of initiation i.e., the design of the programme; at the stage of implementation; and on the renewal of the programme.<sup>15</sup>

The state facing adjustment thus has some scope to negotiate a more suitable programme. It also possesses the ability to frustrate the programme

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<sup>13</sup> See Susan Strange, *States and Markets*, 2nd Edition (London & New York: Pinter Publishers, 1994), pp. 24-34 for a treatment of structural power in international political economy. .

<sup>14</sup> I refer to studies on structural adjustment when I examine the existing literature. An indicative list of such studies is given at that point. See footnote 24 below.

<sup>15</sup> See Paul Mosley, Jane Harrigan & John Toye, *Aid and Power: The World Bank & Policy-based Lending* (London & New York: Routledge, 1991), Vols. 1 and 2, especially Chapter 3 of Vol. 1, for a treatment of bargaining in the process of structural adjustment.

through its willingness, or lack thereof, to pursue its policies as much depends on the state itself executing those policies.<sup>16</sup> This point has been demonstrated by several studies of adjustment. The Philippines under Marcos and Zaire have often been cited as notorious examples of countries exhibiting little or no commitment to reform.<sup>17</sup> An analysis based on structural power thus fails to allow for the options available to the recipients through bargaining.

Rational choice theory, in either variant of new political economy or of neo-liberal institutionalism, also does not suit my purpose. The new political economy has been criticised for its inadequate appreciation of politics in seeking to explain all policy-making as based on self-interest.<sup>18</sup> While I

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<sup>16</sup> This routine of compliance or evasion in conditionality has been variously termed a "game", a "ritual" or a "dance".

<sup>17</sup> These two examples are cited in Thomas Callaghy, "Towards State Capability and Embedded Liberalism in the Third World: Lessons for Adjustment" in Joan M. Nelson (ed.), *Fragile Coalitions: The Politics of Economic Adjustment* (New Brunswick, New Jersey: Transaction Books, 1989). For a more detailed treatment of commitment and slippage by implementing States, see Mosley, Harrigan & Toye, *Aid and Power...*, op. cit (both Volumes 1 and 2). The latter work covers the adjustment process in eleven countries.

<sup>18</sup> Two such critiques are Merilee S. Grindle, "The New Political Economy: Positive Economics and Negative Politics" in Gerald M. Meier (ed.), *Politics and Policy Making in Developing Countries: Perspectives on the New Political Economy* (San Francisco: ICS Press, 1991) and Gerald Meier, "The New Political Economy and Policy Reform", *Journal of International Development*, 1993, pp. 381-389. A further criticism is made by John Toye who cites the analytical deficiencies of the new political economy. He contends that, ultimately, the

subscribe to some of that criticism, my difficulty with rational choice theory centres on two concerns fundamental to my thesis.

The first relates to multiple conditionality. Rational choice would suggest that countries choose to undertake structural adjustment, and multiple conditionality, as a conscious decision. In sum, they enter into partnership with the donors on a voluntary basis, given the realities of the international political economy.<sup>19</sup> However, the conclusion does not stand up to an empirical test. They are very few, if any, instances of countries voluntarily seeking to undertake conditionality. They all seek to minimise or escape the conditional elements in programmes. Rational choice is thus too uncertain a match for multiple conditionality.

Its second variant, neo-liberal institutionalism, fails because, by definition, it does not allow for social forces. My working concept of institutional capacity explicitly covers the building of socio-political capacity. Keohane noted that his

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policies advocated must lead to choices being made as to which groups lose or gain from the policies pursued. Such decisions cannot be rational in nature. They thus expose an inherent fallacy in the concept of rational choice. See Toye, *Dilemmas of Development...*, op. cit., esp. Chapter Five.

<sup>19</sup> This relationship has been termed "reinforcement" i.e., the donors provide support for recipients to pursue policies to which the latter are already committed. See David F. Gordon, "Conditionality in Policy-based Lending in Africa: USAID Experience" in Paul Mosley (ed.), *Development Finance and Policy Reform: Essays in the Theory and Practice of Conditionality in Less Developed Countries* (New York: St. Martin's Press, 1992).



rationalistic approach to international institutions focused almost entirely on specific institutions.<sup>20</sup> He stands in contrast to the reflexive approach which stresses the importance of impersonal social forces and the impact of cultural practices, norms and values.<sup>21</sup> Although Keohane did call for a synthesis of the two approaches, he also emphasised that neo-liberal institutionalism focused on the evolution and impact of international regimes.<sup>22</sup> This concept of institutionalism is unsuited to an analysis of institutions which are not formal organisations but reflect social forces.

This thesis covers several areas e.g., conditionality, institutional capacity, bargaining and development management. There is no single theoretical approach which adequately analyses all of these areas. I am, therefore, guided by a cross-disciplinary approach. In that respect, I share the views of several who advocate the need for such an approach to

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<sup>20</sup> Robert O. Keohane, "International Institutions: Two Approaches", *International Studies Quarterly*, Volume 32, Number 4, December 1988, p. 386. Keohane's neo-liberal institutionalism is a variant of rational choice theory, not least because he lays great stress on its rationality. It is an emphasis which is accentuated by its roots in microeconomic theory of exchange, costs and preferences.

<sup>21</sup> Ibid., p. 381. Among the reflexive school, Keohane identifies Friedrich Kratochwil and John Gerard Ruggie. See Kratochwil and Ruggie, "International Organization..." op. cit. He would also place my operating definition squarely in the reflexive school.

<sup>22</sup> Keohane, "International Institutions...", p. 392.

the analysis of development issues.<sup>23</sup>

### 1.3.2 Relevant Literature

There is a growing literature on the study of the political economy of adjustment. This literature mainly focuses on the technical and operational aspects of such programmes. There have been a number of such studies on both MFI and bilateral experiences, with analysis devoted to the comprehensive treatment of several countries.<sup>24</sup> In the case of multiple

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<sup>23</sup> Meier, Toye and Callaghy all call for a more inclusive approach to analysis. Meier calls on development economists to seek a synthesis of the old political economy (power, class, ideology, nationalism) and the new (rational choice). He also urges that analysis be made of institutional change and its effect on development performance (new institutionalism) as well of the policy-making process in practice. Toye also calls for a cross-disciplinary approach to development issues. He urges the application of theories which, unlike the new political economy, permit reciprocal interaction between the individual and the social setting. Callaghy goes further than either in addressing the difficult case of Africa. What is needed, he states, is an analytic attack which takes simultaneous advantage of choice-theoretic, new institutionalist, and macrosociological and historical perspectives. See Gerald M. Meier, "The New Political Economy and Policy Reform", op. cit.; John Toye, *Dilemmas of Development*, op. cit., and Thomas M. Callaghy, "State, Choice, and Context: Comparative Reflections on Reform and Intractability" in D. Apter & Carl Roseberg (eds.), *Political Development and the New Realism in Sub-Saharan Africa* (Charlottesville: the University of Virginia Press, 1994).

<sup>24</sup> There is a growing literature on the politics of stabilisation under the MFIs' programmes and, to a lesser extent, under the bilateral programmes of the United States Agency for International Development (USAID) and The Overseas Development Agency (ODA). A comprehensive coverage of the politics is offered by the three volumes of the research project on the

conditionality, there has been a general exposition on its nature<sup>25</sup> but little exists on the national experience.<sup>26</sup>

One of the gaps in the literature to which this thesis responds is the assessment of prevailing conditions i.e., the readiness of both donor and

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politics of stabilisation and structural adjustment: Joan M. Nelson (ed.), *Fragile Coalitions: The Politics of Economic Adjustment* op. cit.; Joan M. Nelson (ed.), *Economic Crisis and Policy Choice: The Politics of Adjustment* (Princeton: Princeton University Press, 1990); and Stephan Haggard and Robert R. Kaufman (eds.), *The Politics of Economic Adjustment: International Constraints, Distributive Conflicts, and The State* (Princeton: Princeton University Press, 1992). An equally extensive treatment has been made by the two-volume study: Paul Mosley, Jane Harrigan and John Toye, *Aid and Power: The World Bank & Policy-based Lending*, Vols. 1 & 2, op. cit. Specific treatment of the international aid agencies, the United States Agency for International Development (USAID) and the Overseas Development Agency (ODA) is provided by two articles. They are David F. Gordon, "Conditionality in Policy-based Lending in Africa: USAID Experience" and Peter Sandersley, "Policy-based Lending: An ODA Perspective", both in Paul Mosley (ed.), *Development Finance and Policy Reform: Essays in the Theory and Practice of Conditionality of Less Developed Countries* (New York: St. Martin's Press, 1992). These are only a few, illustrative examples of the burgeoning literature on the issue.

<sup>25</sup> Nelson and Eglinton, *Global Goals, Contentious Means: Issues of Multiple Aid Conditionality* (Washington, D.C.: Overseas Development Council, 1993) covers several instances of the emerging phenomenon of the use of conditionality as a criterion in the allocation of aid.

<sup>26</sup> A recent addition has been a study of the linking of structural adjustment policy and governance conditionality in Guyana. See Tyrone Ferguson, *Structural Adjustment and Good Governance: The Case of Guyana* (Guyana: Public Affairs Consulting Enterprise, 1995).

recipient, before multiple conditionality is introduced. It does so through an evaluation of the suitability of the proposed programme and of the possible obstacles to successful implementation. Such an assessment underlines the importance of the central question - do the parties possess the requisite capacity for implementation of a conditionality programme?

There is a limited literature on bargaining as an aspect of capacity, in the case of multiple conditionality. This literature has focused primarily on the processes and lessons of structural adjustment, looking at conditionality in that context.<sup>27</sup> More recently, the treatment has been of political forms of conditionality such as governance and democratisation. Where it has touched on capacity, it has done so in terms of state capability at the implementation stage of adjustment.<sup>28</sup>

In the specific case of Lomé, the majority of studies have focused on the technical operations of the Convention or on the relationship as an exercise in diplomatic negotiations.<sup>29</sup> Conditionality in Lomé is

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<sup>27</sup> A short, indicative list of such work has been given in Footnote 24.

<sup>28</sup> Two useful examinations of state capability are Richard Sandbrook, *The Politics of Africa's Economic Recovery* (Cambridge: Cambridge University Press, 1993) and Thomas Callaghy, "Towards State Capability and Embedded Liberalism in the Third World...", op. cit.

<sup>29</sup> A sample of the literature on Lomé is offered by the following: Carol Cosgrove-Twitchett, *Europe and Africa: From Association to Partnership* (Farnborough, UK: Saxon House, 1978); Ellen Frey-Wouters, *The European Community and the Third World: The Lomé*

a new phenomenon and, accordingly, suffers from a lack of analytical attention. Bargaining and negotiation have been treated infrequently in studies on ACP-EEC cooperation.<sup>30</sup> I am, therefore, not offered much analytical guidance from the existing literature in my principal areas of focus: Lomé, multiple conditionality and institutional capacity. I do, however, benefit from work in several related areas.

A recent study, commissioned by the EU, examined the structural adjustment process in various ACP states.<sup>31</sup> It considered adjustment programmes under the

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*Convention and Its Impact* (New York: Praeger, 1980); Carol Cosgrove-Twitchett, *A Framework for Development: The EEC and the ACP* (London: Allen & Unwin, 1981); John Ravenhill, *Collective Clientelism: The Lomé Conventions and North-South Relations* (New York: Columbia University Press, 1985); John Ravenhill, "Negotiating the Lomé Convention: A Little is Preferable to Nothing" in I. William Zartman (ed.), *Positive Sum: Improving North-South Negotiations*, (New Brunswick, New Jersey: Transaction Books, 1987); Marjorie Lister, *The European Community and the Developing World* (Aldershot, UK: Avebury, 1988); John Chinwi Mgbere, *Cooperation between the European Union and the African, Caribbean and Pacific Group: a study in group diplomacy* (unpublished thesis submitted for the Ph.D degree, University of London, 1994).

<sup>30</sup> Two such studies are Ravenhill, "Negotiating the Lomé Convention...", op. cit., and Mgbere, *Cooperation between the European Union and the African, Caribbean and Pacific Group...*, op. cit. An earlier work, pre-dating Lomé and covering the EC States' relations with former African colonies, was that of I. William Zartman, *The Politics of Trade Negotiations between Africa and the European Economic Community* (Princeton: Princeton University Press, 1971).

<sup>31</sup> Patrick and Sylviane Guillaumont (eds.), *Adjustment and Development: The Experience of the ACP Countries (Africa, Caribbean, Pacific)*, (Paris: Economica, 1994 (Translation by Buchanan international

MFI's. It thus preceded the structural adjustment support (SAS) programme under Lomé IV. The study is helpful in that it characterises adjustment as ill-designed and not very successful. It thus accentuates the task facing the multiple conditionality programme. If the latter is to achieve more than adjustment did, the programme must be informed by the experience of the adjustment process. Its objectives must be clear as should be its potential to attain those objectives.

The literature on capacity, in the area of the political economy of adjustment, also offers some assistance.<sup>32</sup> This assistance is augmented by the debate which its work provokes when cast alongside the contributions of the institutional development school. The work on the political economy of reform concentrates on the insertion of sociopolitical elements into the standard macroeconomic approaches to adjustment. It thus coincides with the traditional approach to capacity-building, institution development and reform.

The traditional approach has also sought to encompass sociopolitical elements within the design of standard development programmes and projects of reform. However, its primary, if not sole, focus has been on making systemic change or improvement in the

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Traductions).

<sup>32</sup> This body of literature includes Haggard and Kaufman (eds.), *The Politics of Economic Adjustment...*, op. cit.; Callaghy, "State, Choice and Context...", op. cit.; Callaghy, "Towards State Capability and Embedded Liberalism...", op. cit.; and Merilee S. Grindle, *Challenging the State: Crisis and Innovation in Latin America and Africa* (Cambridge: Cambridge University Press, 1996).

functioning of existing organisations.<sup>33</sup> As outlined earlier,<sup>34</sup> a wider appreciation of the task suggests that capacity should be viewed as two-dimensional. It includes the generation of capability through the strengthening of systems in the ACP countries. However, it also needs to be measured in terms of its longer-term contribution i.e., the establishment of the principles and structures which underlie those systems.<sup>35</sup>

The dual nature of the issue is not always fully reflected in the literature. This deficiency is visible in two principal ways. The first relates to the distinction in development administration between "role-oriented" (organisational) change and "rule-oriented" (institutional) change.<sup>36</sup> It is important to note that it is to role-oriented organisations that development agencies are addressing themselves when they seek institutional reform, capacity building and institution building. Scant attention has been paid to the rule-oriented or social institutions which so often underpin those organisations.

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<sup>33</sup> A good example of the traditional approach which also offers a critical overview of the field is Arturo Israel, *Institutional Development: Incentives to Performance* (Baltimore: Johns Hopkins University Press (Published for the World Bank), 1987).

<sup>34</sup> See Section **1.1.2** on institutional capacity.

<sup>35</sup> These include the political and social structures to which Toye refers. See footnote 6 above.

<sup>36</sup> Derick W. Brinkerhoff and Arthur A. Goldsmith, "Promoting the Sustainability of Development Institutions: A Framework for Strategy", *World Development*, Vol. 20, No. 3, 1992, p.369-383.

An example of this deficiency was provided by the presentation of a Vice-President of the World Bank, Edward W. Jaycox, in 1993.<sup>37</sup> The presentation emphasised the importance of capacity to African development. Its focus was on the training of nationals and the reform of the civil service. Jaycox did acknowledge, glancingly, the need to go into structural adjustment with an informed public. However, he did not elaborate on the next and obvious step of how to engage and inform the public of the process. Such a linkage would have helped identify the need to cater for popular participation and decentralised cooperation in development. It thus ignored the important task of building the rule-oriented institutions. As I demonstrate later,<sup>38</sup> EU proposals are similarly geared to reform at the traditional, systemic level and, thus, to organisational change.

The second reflection of the deficiency stems from a recognition of the difficulty of encompassing social dimensions in economic reform. The difficulty has been evident in recent work, particularly by World Bank officials, on the implementation of structural adjustment programmes in developing countries.<sup>39</sup> They

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<sup>37</sup> See Edward W. Jaycox, "Capacity building: the missing link in African Development", *The Courier*, no. 141, September-October 1993. He made the presentation to the African-American Institute.

<sup>38</sup> This topic is discussed in Chapter 6.

<sup>39</sup> The following serves as an indicative sample of such studies: Arturo Israel, *Institutional Development: Incentives to Performance*, op. cit.; Samuel Paul, *Institutional Development in World Bank Projects: A Cross-Sectoral Review* (World Bank, April 1990: WPS 392); and Lawrence Salmen, *Institutional*



highlight the need to cater for sociopolitical elements from the initial phase of programme design and during the implementation of programmes.

Those efforts are, however, still focused on achieving systemic reform through organisational change. They do not take full account of the distinction between such reform and the building of social institutions for development. The latter demand a much longer time-frame of observation to measure their achievement. Their nature as "principles" require more than the mere initiation of "practices" sought by the reforms. They need the demonstration of consistent and regular application of those "practices".<sup>40</sup> Consequently, their success is more difficult to measure and it is much more difficult to cater for them in the initial design of programmes.

The difficulty in ensuring the success of programmes of structural reform relates to another aspect of capacity, the complexity of the tasks. This aspect is reflected in two ways in the literature: in the nature of the tasks and by whom they are executed. The latter point has received greater attention through the treatment of state capability. Indeed, the major focus in the standard literature on institutional development has been on the enhancement of public sector resources.<sup>41</sup> The focus on the official

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*Dimensions of Poverty Reduction* (World Bank, May 1990: WPS 411).

<sup>40</sup> This was the message of the Haitian example. See Section **1.1.2** above.

<sup>41</sup> See Israel, *Institutional Development...* op. cit., p.1.

capacity suggests that the responsibility for implementation of reform programmes is a governmental duty. It is an appreciation which has given rise to a growing criticism in the literature.

The criticism is articulated in two ways. The first is in the "orthodox paradox" of donors using the state to achieve reforms, the principal objective of which is to minimise the state itself.<sup>42</sup> The paradox is readily visible in the EU conditionality proposals. They are solely addressed to the ACP states, charging them with the execution of the various tasks.<sup>43</sup> The second criticism stems from the assessment of the capabilities existing in the recipient states. It is also based on the fact that so many of the objectives of reforms call on the States to exercise enhanced, not reduced, capabilities for promoting economic development through both public and private sectors.<sup>44</sup>

The nature of the tasks involved in the reforms of structural adjustment represents a less readily manageable problem and is less developed in the literature. As emphasised earlier, successful structural reform requires a longer-term perspective and the requisite qualities are not easily accommodated in programme design. There is thus little

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<sup>42</sup> Miles Kahler, "Orthodoxy and Its Alternatives: Explaining Approaches to Stabilization and Adjustment", p. 55 in Joan M. Nelson (ed.), *Economic Crisis and Policy Choice: The Politics of Adjustment in the Third World...*, op. cit.

<sup>43</sup> The main proposals, as embodied by the amendments to the Convention, are outlined in the **Introduction**.

<sup>44</sup> See Thomas Callaghy, "Towards State Capability and Embedded Liberalism...", op. cit.

consensus in the literature on the features in a programme necessary to ensure successful reform. Two trends are emerging in the literature. The first is a recognition that the attainment of objectives can be assisted, not hindered, by greater cognisance of the social setting in which those objectives are pursued. The second is that one avenue worth further consideration might be the identification of the features, within that setting, which can provide an "enabling environment" for the achievement of those objectives.<sup>45</sup>

Further assistance from the literature comes from Thomas Callaghy who looks at capacity in bargaining,<sup>46</sup> again in the context of structural adjustment. He underlines the value of a two-level negotiation approach, which is a metaphor for domestic-international relations.<sup>47</sup> Callaghy argues that there are lessons to be learnt, by the developing world, from the manoeuvring of "embedded liberalism". It is a concept wherein the international obligations of liberalism are acknowledged but within the constraints

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<sup>45</sup> The concept of an "enabling environment" is well developed by Goran Hyden in his article "The Changing Context of Institutional development in Sub-Saharan Africa" in *The Long-Term Perspective Study of Sub-Saharan Africa: Background papers*, Vol. 3: *Institutional and Sociopolitical Issues* (Washington, D.C.: World Bank, 1990).

<sup>46</sup> "Towards State Capability and Embedded Liberalism in the Third World: Lessons for Adjustment", op. cit.

<sup>47</sup> The approach is developed in Robert D. Putnam, "Diplomacy and Domestic Politics: the Logic of Two-Level Games" *International Organization*, Vol. 42, No. 3 (Summer, 1988), pp. 491-517.

of domestic political and economic realities.<sup>48</sup> It is a concept which has been described as Keynes at home and Smith abroad.<sup>49</sup>

Callaghy uses the experiences of Mexico and Chile to illustrate the latitude which domestic manoeuvring offers a state to offset the social and political impositions of adjustment. However, the nature of EU multiple conditionality reduces the scope for such manoeuvring. Its inclusion, at the outset, of social and political dimensions reduces the leeway for offsetting the political costs of adjustment. Callaghy also posits the important contribution that there is scope for bargaining in the adjustment process.

Mosley, Harrigan and Toye also examine conditionality as a bargaining process within the structural adjustment programmes of the MFIs.<sup>50</sup> They look at three stages of bargaining: programme design, implementation and refinancing. Callaghy, for his part, draws on the two-level analysis of negotiation which covers the stages of bargaining and ratification.

The process of negotiation on multiple conditionality is likely to be more complex than either a straight financial arrangement between MFI and recipient or an analysis of negotiations between

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<sup>48</sup> Callaghy, "Towards State Capability...", pp. 118-119.

<sup>49</sup> The description was made by James Mayall, as cited in Robert Gilpin, *The Political Economy of International Relations* (Princeton: Princeton University Press, 1987).

<sup>50</sup> *Aid and Power*, Vol. 1, op. cit.

two parties. Both parties in the Lomé relationship comprise several separate states with varying interests. Indeed, it could be argued that there are two levels of negotiation in Lomé. The first negotiation is internal to each party as part of the process of forming a Group-wide negotiating position. The second is the more customary ACP-EU negotiation which is envisaged when one thinks of Lomé.

The perception of different layers of negotiation evokes the reality of internal trade-offs within each Group. It thus brings Lomé into the context of a multilateral negotiating process, a fact which is possibly hidden beneath the ACP-EU dichotomy. A recent study by Sjostedt, Spector and Zartman identifies six defining characteristics of multilateral negotiations: *multiparty; multi-issue; coalition; consensus; multirole and rule-making.*<sup>51</sup>

Multilateral negotiations are, by definition, *multiparty* but with multi-faceted interests in each party.<sup>52</sup> The negotiations are *multi-issue* in nature, thus allowing for trade-offs in the outcome since all parties do not have the same level or sets of interests on any single issue. A common characteristic of multilateral negotiations is *coalition* formation. While the traditional manifestation is coalition among

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<sup>51</sup> Gunnar Sjostedt, Bertram I. Spector and I. William Zartman, "The Dynamics of Regime-building Negotiations" in Sjostedt, Spector and Zartman (eds.), *Negotiating International Regimes: Lessons Learned from the United Nations Conference on Environment and Development (UNCED)* (London/Dordrecht/Boston: Graham & Trotman/Martinus Nijhoff, 1994).

<sup>52</sup> Ibid., pp. 6-11. This section offers a detailed treatment of the six characteristics.

parties, there are often coalitions formed around issues, interests and positions. Agreement at multilateral negotiations are often reached by *consensus* when parties, not in agreement, can abstain without blocking agreement. The negotiations give rise to *multiroles* whereby the initial distinction between leaders and followers give way to others such as orchestrators, defenders of single issues, etc. Individuals can often be assigned specific roles in working groups, thus deflecting inputs of powerful personalities. Finally, multilateral negotiations are occasions for *rule-making*, rather than for redistribution of resources.

The common perception of Lomé does not correspond exactly to that of a multilateral conference. Nonetheless, the defining characteristics of the latter are much more appropriate to an analysis of Lomé negotiations than are the two-party models. All of the characteristics, save that of *rule-making*, are readily apparent in the Lomé arrangements and particularly so in a wide-ranging area such as multiple conditionality. Even the characteristic of *rule-making* is relevant to the Lomé process. Sjostedt, Spector and Zartman describe the process of regime-formation in multilateral negotiations as incremental, taking place over an extended period. Negotiations move from "whether" (to pursue an issue or an objective) in the main round to "when", "what" and "how" in later meetings.<sup>53</sup>

The incremental process is analogous to the Lomé process in two ways. First, the evolution of rules,

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<sup>53</sup> Ibid., p.10.

constraints and procedures over an extended period corresponds to the emergence of the *constitutive principles*<sup>54</sup> in Lomé. These guiding principles were not initially explicit components of Lomé but emerged through incremental negotiations and interaction, especially between Lomé I and II. Secondly, as with multilateral negotiations, multiple conditionality in Lomé required, first, an agreement on whether to pursue a conditionality programme.<sup>55</sup> It would then be followed by an evolving, incremental process of agreement and elaboration of elements such as scope, content, sanction, etc.

The combined contributions of the various approaches all help to clarify the issues to be addressed herein. The assistance of the literature on adjustment, institutional development and multilateral negotiation is valued but this study still has to chart a path largely on its own. First, it differs from the political economy approach to adjustment for it takes the issue beyond mere adjustment to multiple conditionality. It looks at the process as holistic i.e., the economic conditionalities of structural adjustment are to be satisfied contemporaneously with the social and political conditions. This process makes for a set of arrangements and trade-offs with an intricate matrix of possible cross-conditionalities, hence the term, multiple conditionality. The arrangements and cross-conditionalities are more

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<sup>54</sup> These principles are outlined in the **Introduction** above.

<sup>55</sup> This step has, of course, been taken with the agreements contained in the conclusions of the Mid-Term Review.

complex than those posed by the consideration of the sociopolitical implications of macroeconomic stabilisation. The complexity of the tasks helps throw into even greater relief the importance of institutional capacity of both donors and recipients and of their efforts to achieve them.



## CHAPTER 2

### THE ORIGINS OF CONDITIONALITY

The general interpretation of multiple conditionality is that it represented a definitive shift in the prevailing policies of ACP-EU cooperation. It thus constituted a drastic change in the constitutive principles of the Lomé Convention, the "*acquis*", and subjected the cooperation to hitherto excluded political considerations. Such was the fundamental view of most ACP states, irrespective of whether they considered conditionality inevitable or not. The ACP Group asserted that the existing Convention, Lomé IV, already contained principles, inserted primarily on its own initiative, which covered human rights and the promotion of democratic values.

While the Group proposed that those provisions could and should be improved, it saw little need for their imposition by the Community. The ACP's concern was with the unilateral policy applied by the EU during the first half of Lomé IV. The policy consisted of the EU withholding development assistance from ACP states when it decided that there had been violations of basic principles of human rights and democracy.<sup>1</sup> The ACP Group was concerned that such a policy was applied by the Community without due consideration and agreement with itself. It thus constituted an ominous precedent for the future interpretation of

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<sup>1</sup> "The Mid-Term Review of the Fourth Lomé Convention: ACP Memorandum to the European Union" (ACP/27/003/94 Rev. 3), pp. 1-2.

conditionality provisions.

Similarly, definitive change was at the heart of the Community's perceptions when the Commission argued, first, that development was a global process of transforming societies. The Commission also contended that, if the scope of cooperation policies was to encompass political and administrative areas, important changes would have to be made in the dialogue between the recipients and donors. If the latter wished to encourage democratisation and encourage durable development progress in recipient countries, then they would have to state clearly their concerns and apply their "conditionality" deliberately.<sup>2</sup> It would appear that, in both ACP and EU perceptions, multiple conditionality was a deviation from the existing policy of cooperation.

I contend, however, that the reality was both much different and more complicated. The concept of conditionality had long been considered by the Community, at least. A process had been set in train which, although not nominally conditional, did initially impinge on the central tenet of the *acquis* i.e., the full recognition of, and the mutual respect for, the sovereignty of each partner and for its political, social, cultural and economic choices. That process began with the elaboration, in 1982, of the need for "policy dialogue" in what has come to be

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<sup>2</sup> "The Community's Relations with the Developing Countries Viewed in the Context Of Political Union", Annex to SEC(92)915 Final/ 2, *Development Cooperation Policy in the Run-Up to 2000*, Communication of the Commission to the Council and Parliament, p.57.

known as the Pisani Memorandum.<sup>3</sup> The process continued, over time, growing from the advocacy of policy dialogue in the negotiations for Lomé III through its acceptance in Lomé IV. It continued with the provisions for structural adjustment and the frameworks for mutual obligations (FMOs) in respect of the stabilisation of export earnings (Stabex) in Lomé IV. It finally concluded with the inclusion of multiple conditionality in the Mid-Term Review of Lomé IV.

The development of the process was not always recognised as the build-up to conditionality by its authors, the Community or by the ACP. The initial struggle for policy dialogue resulted in an unofficial, informal form of conditionality while none of the other phases leading to multiple conditionality was explicitly characterised as conditionality. It is even debatable if the Community consciously designed them as building blocks of conditional aid but they were, nonetheless, steps on the EU's path to multiple conditionality.

For the ACP Group, the perspective was totally different. The Group recognised, and resisted, the dangers of policy dialogue in the negotiations for Lomé III. Having won that battle, the Group rested on its laurels and failed to recognise any of the subsequent steps on the path to multiple

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<sup>3</sup> The Pisani Memorandum was actually a Memorandum on the Community's Development Policy prepared by the Commission and was so titled in honour of its architect, Edgard Pisani, the then-Commissioner for Development. See *The Courier*, No. 76 (November-December 1982), pp. 10-28 for the text of the Memorandum.

conditionality for what they were. Indeed, as I show later, the ACP regarded each of the steps identified above as having a distinct value in itself and, in some cases, a positive value. The ACP states further compounded their dilemma by initiating some proposals of their own which served to undermine further the basic principle of the *acquis*. They did so by expanding the scope of the Convention beyond trade and aid to encompass sociopolitical dimensions. It was an expansion which allowed the Community *entrée* to discussions on wider areas of national policy.

## **2.1 BACKGROUND TO CONDITIONALITY: INITIAL FEATURES**

In 1982, there were a number of developments, both global and internal to the ACP-EEC relationship, which militated in favour of a revaluation of development assistance. The North-South dialogue had seemingly broken down irretrievably with the failure of efforts at global negotiations on development as symbolised by the impasse at the United Nations Special Session in 1980. The results of the Cancún Summit in Mexico in 1981 had been disappointing as well. The assessment of the achievements of the development decades of the 60's and 70's was pessimistic in that the developing countries had not shown the desired or expected results from development assistance.

Additionally, both debt and spiralling energy costs posed new problems for developing countries even as the global economy was beset by recession. The Community itself was beset by high unemployment. With so many least-developed countries among the ACP, the

issues besetting the global economy were just as, or even more, pressing to the Community's partners in the ACP<sup>4</sup> than they were to developing countries in general. Internal to Lomé, the negotiations for Lomé III were set to begin in September, 1983 and the question of ACP development prospects was a valid concern in that context.

### **2.1.1 The Pisani Memorandum: Conceptual Origins of Conditionality**

The above picture gave rise, naturally, to an evaluation by the Community of the achievements and prospects for development policy. The conclusions of the Pisani Memorandum reflected the results of the evaluation. Underlying the conclusions was the conviction that improving development action required more than a mere increase in aid resources.<sup>5</sup> A series of additional considerations in the formulation of the Memorandum have to be examined, among which were a few which are critical to this study. First, aid, and the transfer of technology which it involved, had to be adapted to local requirements of recipient countries. Secondly, developing countries, through their administrative limitations and emphasis on state machinery, were also partly responsible for the failure of development cooperation. The solution was to be found "between rigid *conditionality* imposed by

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<sup>4</sup> I am here recapturing the reasoning of the Commission as articulated by Commissioner Pisani. See "Interview: Edgard Pisani comments on the Memorandum on Community Development policy", *The Courier*, No. 76, pp. 3-9.

<sup>5</sup> "Memorandum on the Community's Development Policy", *The Courier*, No. 76, p. 18.

financing bodies and the irresponsibility of non-conditionality" through a political dialogue between donors and local decision-makers.<sup>6</sup>

The political dialogue would concern the effectiveness of the policies which the recipient Governments asked the Community to support. The dialogue would lead to a form of "inverted conditionality":<sup>7</sup> Community assistance would be predicated on Governments *adhering to their own stated policies* once those policies had been agreed, with the donor EEC, as coherent and consistent. The logic of inverted conditionality lay in the switch which was taking place in Community aid from project to programme assistance and to a sectoral emphasis in the latter. The sectoral approach was typified by an initial focus on food sector strategies. It was a strategy enunciated in the Pisani Memorandum but it was fully supported by the ACP Group. The ACP recognised the need to increase domestic food production. Its members, like the rest of the developing world, had suffered from dramatic rises in food imports in the early 1980s.<sup>8</sup>

The sectoral approach was well suited to policy dialogue. The demand for an overall perspective on sectoral policy meant that Governments had to design a framework for the sector. It had to be based on an

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<sup>6</sup> Ibid., op. cit., p. 19.

<sup>7</sup> Ibid., p. 19.

<sup>8</sup> See ACP Group, *Memorandum on the Position of the ACP Group in its Future Relations with the European Economic Communities* (ACP/0023/83 NEG (Rev.4), pp.52-53. This was the ACP's negotiating brief for Lomé III.

internal consistency in policy in the sector receiving aid. Its consistency had to be maintained in implementing the programmes in the sector. The implementation of sectoral aid thus entailed discussion, between donor and recipients, on the coherence of the strategies pursued in the sector.

Two important elements arose from the choice of an approach located between rigid conditionality and non-conditionality. The first of these elements was the concept of *effectiveness* implicit in inverted conditionality. The Community reaffirmed its respect for the sovereign right of recipient countries over the use of aid resources. It did insist, nonetheless, that it had "a right and a duty to engage in a dialogue" with recipient Governments concerning the effectiveness of the policies which it was supporting.<sup>9</sup> This initial interpretation of effectiveness was largely one-sided in that the onus of proving effectiveness was on the recipients. It assumed that policy dialogue would enable the donor Community to ensure that the policies of the recipients were consistent and in accord with an acceptable overall design.

With the passage of time and as multiple conditionality approached, the concept was extended to encompass *efficiency* and *accountability*. They were applied not only to recipients but also to the technical officials charged with the delivery of development aid. As I show later, development programmes were to be assessed for consistency of policy, cost-effectiveness and achievement, and

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<sup>9</sup> Ibid., p. 10.

responsible use of resources.<sup>10</sup> The concept assumed more of a two-way dimension as the implementation of cooperation was made subject to internal Community criteria on the use of funds for development. The criteria arose from political considerations. The political directorate of the Community had to satisfy the pressures of limited resources and growing numbers of claimants. They also faced a domestic populace which was increasingly sceptical of the use of resources for far-off and irrelevant projects.<sup>11</sup>

The second important element, highlighted by the Memorandum, was the strengthening of administrative capacity in developing countries. A critical element in the solution of the problems of development was the requisite skills for the management of assistance.<sup>12</sup> It is not certain that this element was as widely elaborated in Community policy as was effectiveness in later years. Nonetheless, the initial recognition of an important aspect of capacity, the administrative element, was there from the outset.

Equally important were two further nuances of capacity which emerged from the Pisani Memorandum. Pisani himself underlined an important difference between a developed and an underdeveloped country. It

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<sup>10</sup> This assessment is covered in Chapter 5 which deals with the operations of the Convention.

<sup>11</sup> The importance of internal accountability in the Community as a contributory factor in the emergence of multiple conditionality was stressed by Peter Pooley, Deputy Director-General for Development (DG VIII) in the Commission, during my interview with him.

<sup>12</sup> "Interview: Edgard Pisani comments...", op. cit.



was less the difference in industrial capacity than the lack of the "multiple network of economic, social, cultural, political and intellectual relations".<sup>13</sup> Implicit in that analysis was the recognition that the capacity required for development went beyond the administrative i.e., the sets of functional arrangements. It also comprised other aspects such as social and cultural relations.

Pisani's networks thus consisted of both a range of functional arrangements and a more notional set of institutional interactions. It was the latter which would evolve over time into sets of dependable and predictable relations, akin to principles. This combination of elements is remarkably similar to my own working concept of institutional capacity. It covers both the establishment of practices and the more notional principles which would be fostered by those practices.

The second nuance of capacity was the need to ensure that the capabilities built up during the process of the policy dialogue were culturally adapted. They needed to be suited to local requirements and compatible with the national development priorities of the recipients. Aid was more likely to succeed if it was an integral part of policy and "not superimposed on an alien reality".<sup>14</sup> This early phase of conditionality, as proposed in the Pisani Memorandum, was a *benign* form. It sought to establish, through policy dialogue, a logic and a

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<sup>13</sup> Ibid., p.6.

<sup>14</sup> "Memorandum on the Community's Development policy", op. cit., p.19.

rationale for the sectoral programmes of the recipients. It would use faithful observance of that agreed coherence as the conditional element of future cooperation.

The initial approach did not wholly succeed due to the firm opposition of the ACP but it had set in motion, within Community policy, a process which was to continue and result in multiple conditionality. The effort failed for the primary reason that the ACP feared that the inclusion of policy dialogue in the Convention might be used to undermine the sovereignty element in the *acquis*. Apart from the limited scope of the food sector strategies, the main effort to pursue policy dialogue and inverted conditionality was made during the negotiations for Lomé III.

Two subsidiary reasons for the failure were to be found in internal Community divergences.<sup>15</sup> One was an apparent problem of semantics centring on the rendition of the term "policy dialogue" in Community languages. The terms "policy" and "political" are indistinguishable when translated into French and German. Thus, both the French and German renditions of policy dialogue conveyed a wider interpretation of a "political" dialogue. Such a dialogue on overall national policy was not acceptable to some of the member states and, certainly, not to the ACP.

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<sup>15</sup> The two points of internal disagreement were initially raised in my interview on 8 September, 1995 with Dieter Frisch, Director-General of DG VIII during most of this period. They were later corroborated by Edwin Carrington, Secretary-General of CARICOM, in my interview with him in Georgetown, Guyana on 5 January, 1996. The latter served as ACP Secretary-General from 1985-90 and as Deputy Secretary-General from 1975-85.

The second disagreement was more conceptual: some Community states, and some Commission officials, were of the view that aid resources, once allocated to the ACP, were the responsibility of the ACP states for them to use as they saw fit.<sup>16</sup> They opposed policy dialogue for that reason. For that group, a policy dialogue on the use of resources implied that the aid remained the Community's and threatened the exercise of ACP responsibility. It was a perspective which coincided with that of the ACP Group.

The combined effect of the ACP's opposition and the internal differences led to the failure of the Community to have policy dialogue included in Lomé III. The provisions of Lomé III reflected that fact. The text of the Convention only mentioned the term "dialogue" in Article 8 in a general sense<sup>17</sup>. It made no allowance for any of the various conditional factors which were sought by the Community.

The initial Community approach of inverted conditionality was important for a number of reasons. First, it refutes the common wisdom that *conditionality* was an unknown element in ACP-EEC

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<sup>16</sup> Interview with Dieter Frisch. He mentioned the specific case of the two positions being championed respectively by Commissioner Pisani and his predecessor as Commissioner, Claude Cheysson, then the French Minister of Overseas Development. Commissioner Pisani favoured policy dialogue while Cheysson opposed it on the grounds that the funds were the ACP states' to use as they saw fit.

<sup>17</sup> The Third ACP-EEC Convention of Lomé, *The Courier*, No. 89 (January-February 1985). In Article 8, the two sides merely agree to pursue the dialogue "to seek ways and means of rendering" the instruments of the Convention more effective.

relations. Macroeconomic conditionality, *per se*, might not have been explicitly introduced into the Conventions. Nor might a formal, restrictive version have been proposed. However, the concept was clearly mooted and considered by the Community, with the important caveat that the conditionalities were to be based on policies of the recipients' design. In that sense, inverted conditionality differed decidedly from that of the MFIs in that it was not part of a doctrinaire set of formulae imposed from outside.

Secondly, while conditionality did not emerge as an initial strategic choice, it did raise a series of elements which were to assume a vitality of their own and play important roles in the later evolution of EU conditionality. *Effectiveness* was the motivating force of the thrust for policy dialogue. In its later incarnation which encompassed efficiency and accountability, it provided the rationale for a more rigorous approach in both the provision and disbursement of development assistance by the Community.<sup>18</sup>

*Capacity* was recognised as a *sine qua non* of the effective management of assistance by recipients. A great deal of the emphasis was on strengthening administrative capabilities. Pisani also underlined his assessment that those capabilities should, first, go beyond the political and economic to encompass social and cultural arrangements. Secondly, he stressed that they should be entrenched in the

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<sup>18</sup> The issue of increased rigour in Lomé programming is treated in chapter 5. See Section 5.4 herein.

recipient society as overarching networks.

A third characteristic of the initial proposal was the recognition that any form of dialogue must result in initiatives which were geared to the priorities and nature of the recipient society. In other words, the proposed measures would have to be *adaptable*. That insistence on a unique set of measures suitable to the recipients' conditions was a novel element of Community policy. It was to resurface during the discussions on structural adjustment. It also currently distinguishes EU positions on conditionality in policy sessions of the MFIs from the more general positions of the other donors.<sup>19</sup>

Policy dialogue, and the inverted conditionality which it proffered, remained an important feature of the ACP-EEC relationship. The ACP Group might have won the battle against its inclusion in Lomé III but the Community won the war over acceptance of the concept of policy dialogue. Its inclusion was finally agreed for Lomé IV. Its acceptance at that latter date was obviously conditioned by the earlier debate as it was not accompanied by the mention of any form of conditionality. More important was the fact that the Community managed, to a certain extent, to circumvent ACP opposition. It did so through the introduction of policy dialogue during the programming exercise preceding the implementation of Lomé III. The struggle

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<sup>19</sup> European Commission, *The Design of Economic Reform in the Context of Political Liberalisation: Findings and Conclusions from Case Studies*, Paper prepared for the Meeting of the Special Programme for Africa - Working Group on Economic Reform in the Context of Political Liberalisation (December, 1994), pp.22-23. This distinction is developed in Chapter 6.

for policy dialogue was a critical reflection of the misperceptions which the ACP Group held of the conditionality process.

In sum, the Pisani Memorandum stressed three features important to the process leading to multiple conditionality. The first was the *policy objective and motivation* i.e., the genuine promotion of development through the effectiveness of aid programmes. The second was the choice of an *instrument* to achieve the objective: a benign form of inverted conditionality through policy dialogue.<sup>20</sup> The third was a complementary set of *means*, the networks of institutional capacity, to help with the execution of the policy.

#### **2.1.2 Lomé III: Programming Exercise**

As noted above, the Community did not succeed in persuading the ACP to accept policy dialogue in the negotiations for Lomé III. The Community was much more effective in the programming exercises which Commission officials undertook to discuss and agree indicative programmes with the ACP states. During those exercises, the Community did convince several individual ACP states to accept the dialogue as part of the agreed programme of assistance to be offered

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<sup>20</sup> Conditionality is not a policy but an instrument to pursue other objectives. In this case, the end was effective aid programmes and genuine progress to development. On the issue of conditionality as an instrument, see Olav Stokke, "Aid and Political Conditionality: Core Issues and State of the Art", pp. 2-3 in Stokke (ed.), *Aid and Political Conditionality* (London: Frank Cass, 1995) EADI Book Series 16.

during Lomé III. It is doubtful that the discussions during the programming exercises directly mentioned the term "policy dialogue". However, the effect of the conclusions of the exercises was a series of variations in important sectoral policies, in the recipient state, in accord with the objective of policy dialogue.

A few examples will help to demonstrate how the goals of policy dialogue were achieved during the programming discussions. The examples centre, primarily, on the agricultural sector for, in both the Community's and the ACP's view, it was an area of the greatest import. That importance was reflected by the fact that food production strategies had been accorded priority status in the Convention.

The three individual examples are of Tanzania, Ethiopia and Kenya;<sup>21</sup> the other is of the regional programming exercise in the Caribbean. In Tanzania, the Commission sought to have, and succeeded in having, the Government agree to an agricultural pricing policy based on incentives. The introduction of such a market-oriented feature had been anathema to the Tanzanian authorities up to that point. The Government had never accepted the inclusion of an incentive pricing policy in any formal agreement, not even with the World Bank.<sup>22</sup> Kenya was also persuaded to re-examine the role of its central marketing boards as part of an examination of food production in the

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<sup>21</sup> The three country examples of Tanzania, Ethiopia and Kenya which follow are all drawn from my interview with Dieter Frisch who was personally involved in the programming exercises.

<sup>22</sup> Interview with Dieter Frisch.

sector.

Similarly, in Ethiopia, the Commission insisted that the funds which it was providing for agriculture justified its demand that the Government consider a varied approach to the sector. In this case, the Commission was concerned about the negative effects of the socialist-style centralised farming units under the Mengistu regime. Again, the Government was persuaded of the value of the Community's view of decentralisation as a more viable approach. It was clearly not an easy matter to persuade the Ethiopian Government of the Community's point of view. The subject Minister shared the Community's perspective but he had to obtain the seal of approval from the President. The latter was persuaded only after direct discussions with the Commission delegation. In the opinion of one senior Commission official, the success in Ethiopia was a model of policy dialogue, of "reciprocal and mutual commitments".<sup>23</sup>

In the regional programming exercise in the Caribbean, the Commission's focus was less on a single sector and more on a rethinking of the scope of the programme. For the Community, the regional programme covered too many sectors e.g., agriculture, education, health, trade and tourism.<sup>24</sup> The Commission officials

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<sup>23</sup> Ibid.

<sup>24</sup> The reflections on the regional discussions are based on both the recollections of the author who was a participant in the discussions and those of regional officials of the Caribbean (CARICOM) Secretariat which coordinated Caribbean relations with the Community. There was no unit in CARICOM formally charged with the Lomé portfolio. My conversations were informal and consisted of informal discussions with two officials



tried to achieve two objectives. The first was to have one or two central themes identified, such as human resources development, which would serve as the basis for links to the various sectors; the second was to have the programme cover a smaller number of sectors. One of the main reasons offered for the change in the criteria for drawing up the programme was the complexity of the programme. The management of so many sectors and the range of projects within each sector, supposedly, posed great difficulty for the technical services of the Commission. The Commission was thus raising the question of programme coherence which underlay the concept of policy dialogue without directly mentioning the contentious issue.

The proposal represented a clear change in the format of the regional programme and presented the Caribbean group with several major dilemmas. The first was how to choose between sectors, particularly in cases where the list of projects had been ratified by a Council of Ministers in the sector. Secondly, the group considering the regional programme and, indeed, present at the discussions with the Commission was a diverse collection of interests which were very hard to reconcile. They included not only the thirteen regional states but also most regional organisations. The latter ranged from the Caribbean Development Bank through the Consultative Association of Industry and Commerce (an umbrella group of regional industry) to the University of the West Indies. Finally, the group

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who regularly represented CARICOM on Lomé matters. The discussions took place during visits to Georgetown, Guyana in January and August, 1994 and January, 1995. As of Lomé IV, the Caribbean regional programme under Lomé is being handled by a formal unit, CARIFORUM.

felt that the Commission was threatening the regional prerogative to fashion its own programme on the apparently spurious grounds that the programme demanded too much time. The reason advanced did not pay due regard to the considerable consultation and negotiation which the formulation of the programme had required.

The Caribbean response to the proposal was negative but the objections were all based on the specific issue of change in the criteria. At no time did the group raise the matter of policy dialogue or question the apparent attempt of the Commission delegation to recover ground lost during the Lomé III negotiations in Brussels. The Caribbean reactions focused on the merits of the proposal and on whether it was a feasible proposition. The Commission's proposal was not perceived for what it was, a subtle reintroduction of the policy dialogue debate. Only in the area of the region's right to design its own programme did the Caribbean venture close to the ACP objections in Brussels.

The example reveals that there was an obvious lack of communication between the officials in home states and the ACP representatives in Brussels. It highlights an important aspect of the Lomé relationship: the gap in perception which exists between the representatives who are involved in the negotiating routine in Brussels and the officials who are responsible for Lomé matters in the capitals. A good indication of that gap was the fact that not one of the regional states had thought to include a representative, of any seniority, from its Brussels Mission, in its delegation to the programming

exercise.

The Community might have failed in its attempt to include the concerns underlying policy dialogue in the Caribbean programme but the same could not be said for the individual country programming exercises, as has been shown. The principal achievement, in the latter instance, was that the Community managed to obtain a dialogue on the grounds of reason. It did so by pointing out that the major investments which it was making in the various sectors demanded that the sectoral policies each be made subject to internal logic and coherence. The state's priorities would still hold but they would be the subject of a reasoned dialogue to ensure that coherence was achieved. The Community was winning the war. By the time of Lomé IV, the issue of policy dialogue was a dead letter. The Community had been involved in so many discussions on the policy objectives of ACP states that the ACP had no grounds on which to resist its inclusion in the new Convention. The unvoiced debate on conditionality could turn to new issues.

### **2.1.3 Structural Adjustment**

During the negotiations for Lomé IV, a critical issue was the state of ACP economies, with the treatment of debt burdens as the major concern. A parallel issue was the difficulties which the pursuit of structural adjustment programmes was posing for the ACP states. There existed a need for urgent action and provision for structural adjustment support was made

in the new Convention.<sup>25</sup> The adoption of a programme of structural adjustment support (SAS) within Lomé was not achieved without considerable contention. Several ACP states saw it as the thin edge of the conditionality wedge which the MFIs were then forcing on all applicants for assistance. It was further contended by some in the ACP that the Community was planning to integrate its own programme into that of the MFIs. The effect would thus be to reinforce, rather than alleviate, the problems which structural adjustment was causing.

Several forms of reassurance were offered, by the Community, to the ACP to ensure that the motives of the SAS were not misunderstood. It was mutually agreed that the process of economic rationalisation, as Manuel Marín, the Commissioner for Development termed it, was unavoidable.<sup>26</sup> The Community sought to defend its own approach against the charge, made during the negotiations, that its programme was a mere parody of the MFIs'. The EU argued that its own emphasis in the proposed SAS was markedly different. It would concentrate on the alleviation of the social dislocations which the pursuit of the traditional programmes was causing. Those dislocations were a neglected feature of existing policies oriented to macroeconomic reforms.

As the Commission itself stated:

" ... a number of structural adjustment programmes were not successful or

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<sup>25</sup> See Article 243 of the Fourth ACP-EEC Convention, *The Courier* no. 120, March-April, 1990.

<sup>26</sup> Manuel Marín, "Lomé IV - the scope of a new Convention", *The Courier* no. 120, p. 13.

experienced serious difficulties due to political and social obstacles stemming from an approach which was too rigid and too focused on purely financial and economic considerations."<sup>27</sup>

Thus, the stated objective was to avoid repeating the errors of the MFIs and to help relieve the negative social consequences.

The second reassurance lay in the pledge that SAS funds would be additional to the traditional development funding. Arising from these two earlier assurances was a third that the Community's SAS would be original and involve a specific Community orientation i.e., a pragmatic, realistic and differentiated approach.<sup>28</sup> Lomé IV stated, further, that the ACP states would bear the primary responsibility for the preparation of reform programmes. It declared that those programmes would be adapted to different situations and social conditions in each state. They would be pursued within the political and economic model of the state concerned.<sup>29</sup>

Even the eligibility criteria outlined for the SAS were designed to allay any ACP fears of a possible emulation of the restrictive MFIs' programmes. Those ACP states eligible for the SAS would fall within one of three categories:

- (a) those already pursuing a programme of

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<sup>27</sup> Speech of Manuel Marín at the signing of the Lomé IV Convention, Lomé, December, 1989.

<sup>28</sup> Manuel Marín, "Lomé IV - the scope of a new Convention", op. cit., p. 13.

<sup>29</sup> Article 244, Fourth ACP-EEC Convention, op. cit.

structural reform with the MFIs;

(b) those pursuing an agreed programme preparatory to structural reform i.e., a shadow programme;

(c) those pursuing a programme of their own design and which they could satisfy the Community was the equivalent of a structural reform programme.

The scope of the criteria was such as to cover most of the ACP and reassure those which were most wary of being forced into MFI conditionality through the Convention.

The funds involved in the SAS were limited,<sup>30</sup> thus constraining the likely impact of the support. The Community was not providing sufficient SAS funding to allow it to fashion a full-scale conditionality package as the MFIs were doing. The Community also downplayed the possibility of close coordination with the MFIs in the implementation of its own SAS. Commissioner Marín did signal that the SAS allowed for closer donor coordination but that would be in the context of the Community's pragmatic and realistic approach.<sup>31</sup> Commission negotiators noted that the Community might have to liaise with the MFIs in the implementation of the SAS since the programme would

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<sup>30</sup> An amount of 1150 million ECUs was reserved for the SAS. While this could be supplemented by a limited portion of an individual state's IPF, the total looks much less impressive when it is considered that it covers a five-year span and could potentially benefit sixty-odd states. From the latter perspective, and assuming an even spread of benefit, the average SAS per country is less than 4 million ECUs per annum.

<sup>31</sup> Marín, "Lomé IV - the scope of a new Convention", op. cit., p.13.

require an expertise in development economics which the Commission then lacked.

The initial impression of the SAS, as proposed and accepted in the negotiations, was of a measure largely supportive of the major burdens which the ACP countries were pursuing in their reforms. By late 1994, the early image of the SAS had notably changed from that of an original, pragmatic and differentiated programme. The Community was now asserting that there should be no confusion: each country could have only one structural adjustment programme.<sup>32</sup> The clear implication was that if that one programme happened to be with the MFIs, then the Community would follow the latter's lead. The potential for differentiation had vanished and the proximity of the SAS to conditionality à la MFI had increased.

#### **2.1.4 Lomé IV: Stabex**

The progress to conditionality via the new image of the SAS took on concrete form with the treatment, in Lomé IV, of the system for the stabilisation of export earnings from agricultural commodities (Stabex). Prior to the Convention, transfers of funds to recipient ACP states were made with little overview of the final use of the funds. Criticisms had often been made that the ACP were utilising the funds for balance of payments support and not to help redress

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<sup>32</sup> European Commission, "Community support for structural adjustment in the ACP countries: towards the consolidation and strengthening of a realistic and concerted approach", COM(94) 447 final. This point was subsequently underlined in my interview in Brussels with Peter Pooley, then Deputy Director-General for Development in the Commission, on 31 August, 1995.

the problems in the affected area of production.

In Lomé IV, the latitude accorded to the ACP was firmly restricted through the adoption of frameworks of mutual obligations (FMOs). The FMOs were concluded by agreement between the state concerned and the Commission. They compelled the recipients to use the transfers either for the benefit of economic operators in the sector suffering the fall in earnings or for the purpose of diversification in the agricultural sector.<sup>33</sup>

The net effect of the FMOs was to build upon the objectives of the policy dialogue. It did so by, first, ensuring that prospective recipients of STABEX came to an agreement with the Community, via the Commission officials, on their overall plans for ailing sectors. The conditionality is implicit but, nonetheless, real. The application of the provisions for the FMOs has demonstrated that fact. A number of ACP states have complained that the exercise of concluding an FMO is painful and comprehensive. It often involves discussions with officials, at the highest levels, in Ministries of Economic Development or Planning in ACP capitals on wide-ranging aspects of economic policy.<sup>34</sup>

Lest the linkage between the tightening of the

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<sup>33</sup> Article 186(2) of the Fourth ACP-EEC Convention, op. cit..

<sup>34</sup> This point was made to me separately in interviews in Brussels. They were with the Edwin Laurent, Ambassador of St. Lucia to EEC on 1 September, 1995 and Samuel Orgias, the Chargé d'Affaires of Mission of Grenada to EEC on 5 September, 1995.



use of STABEX transfers and conditionality be underestimated, the Community was much more explicit. It placed emphasis, in its position for the Mid-Term Review, on the conditional role of STABEX transfers:

"Lomé IV's new provisions regarding the use of Stabex transfers, particularly in the form of the frameworks of mutual obligations, broaden the scope of Stabex beyond financial compensation to encompass assistance for sectoral adjustment and even macroeconomic adjustment..."<sup>35</sup>

The Commission and the Community, for the former's proposals were largely accepted by the Council of Ministers, also made clear their desire to have a conditional bond between the SAS and Stabex transfers:

"As a result, it is vital that the implementation procedure for Stabex (use and conditions) be systematically coupled with, or failing that, operate in tandem with or back up structural adjustment support when both facilities are used in the same country."<sup>36</sup>

This last proposal to tie STABEX transfers and structural adjustment together was not approved in the negotiations for the Review. However, it does need to be viewed in the context of the changed perspectives of the Community at the time of the Review. The Community, by that time, had consciously fashioned a programme of conditionality i.e., multiple conditionality. Thus, references to concepts such as structural and macroeconomic adjustment had to be viewed in a more traditional and rigorous nature,

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<sup>35</sup> "Explanatory Memorandum" to the Commission's Proposals for the Mid-Term Review, p.33.

<sup>36</sup> Ibid., p.33.

designed to fall more in line with the MFI model.

## **2.2 MULTIPLE CONDITIONALITY**

The emergence of the specific programme of multiple conditionality in the Community's cooperation was an extension of progress made by the previous building-blocks. It built on the contributions of policy dialogue, structural adjustment support and FMOs within Stabex. They had all been steps towards a more conditional form of assistance. They were also aided by the changing international environment. Progress towards the specific proposal of multiple conditionality was marked by three identifiable signposts within the relationship. They were the Marín-Matutes paper; the Commission's paper on the Community's relations with the developing countries, "Development Cooperation to the year 2000"; and the Pons Grau Report in the ACP-EEC Joint Assembly. I will deal with them in turn to show how each contributed to the progress towards multiple conditionality.

Developments in the international environment at the beginning of the 1990's served as an important backdrop to the process which led to multiple conditionality. I had earlier indicated that, at the time of the signing of Lomé IV in December, 1989, Commissioner Marín had emphasised the importance of economic reform in the ACP states.<sup>37</sup> It was a position which corresponded to the global trend in the 1980s

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<sup>37</sup> See both Marín, "Lomé IV - the scope of a new Convention" op. cit. and the Commissioner's Speech on the occasion of the Signing.

towards macroeconomic reform<sup>38</sup> based on a "neo-liberal" approach to the management of economies. The approach was characterised by emphases on market deregulation and the promotion of the private sector, the individual and enterprise culture.<sup>39</sup> Globally, the dissolution of the Socialist Commonwealth had changed the geopolitical map and removed the need for maintaining and rewarding unsavoury "allies". It was a major factor which influenced the trend towards a more strict application of criteria for development assistance.

These general features had concomitant effects within the EU and in the developing world. In the EU, there were growing calls for more accountability in the use of development assistance and for greater efficiency and effectiveness in the deployment of funds. Accompanying the calls were several public statements on the importance of political and social reform in recipient countries. The most significant of the calls, in the context of the Lomé relationship, was that of President Mitterand of France at the

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<sup>38</sup> It is also noteworthy that the introduction of structural reform and conditionality lags behind the international trends by a period of several years. While it is clear that the global development did influence the move to conditional policy in Lomé, it is also clear, from the significant time-lag, that internal factors were probably more influential in the move.

<sup>39</sup> See Adrian Leftwich, "Governance, democracy and development in the Third World", *Third World Quarterly*, Vol. 14, No. 3, 1995. For a more comprehensive treatment of the emergence and impact of neo-liberalism, see John Toye, *Dilemmas of Development: Reflections on the Counter-Revolution in Development Economics*, Second edition (Oxford, UK & Cambridge, USA: 1993).

Franco-African Summit in January, 1990.<sup>40</sup>

In the developing world, the parallel effect had been in the growth of movements promoting the extension of democracy. As part of their advocacy of reform, these groups articulated the need for economic and social improvements in their own societies. Those proposals mirrored, and often coincided with, the demands for structural adjustment by the donors. The thrust for structural reform had acquired resonance and support in the domestic arena of many ACP states.

### **2.2.1 Marín-Matutes Paper**

Largely in response to these prevailing trends, the Community bestirred itself in the search for a way of incorporating the new developments in its cooperation programme. In March, 1991, the Commission prepared a statement on "Human Rights, Democracy and Development",<sup>41</sup> which was forwarded to the European Council of Ministers and the European Parliament for consideration. The document had been prepared on the initiative of Commissioners Marín and Matutes (the latter responsible for North/South relations), hence the reference to the Marín-Matutes Paper.

The document based itself on Article 30(5) of the

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<sup>40</sup> Cited in Rolf Hofmeier, "Political Conditions attached to Development Aid for Africa", *Intereconomics* 26, No. 3 (May-June, 1991). See also "Aid and Political Reform", Overseas Development Institute (ODI) Briefing Paper, January 1992.

<sup>41</sup> The Commission Statement on "Human Rights, Democracy and Development" was transmitted by the ACP Secretariat under cover of an ACP Note, *ACP/42/011/91*.

Single Act.<sup>42</sup> It reiterated the responsibility of the President and the Commission for ensuring consistency between the Community's external policies and those agreed in pursuit of Maastricht. On that basis, the paper saw the need for a more systematic approach to the various statements which had been made in promotion of human rights in developing countries. It also recommended that such pronouncements should be based on a more carefully thought-out doctrine and "should foster democracy, the rule of law, and respect for human rights and promote economic development throughout the world."<sup>43</sup>

The Paper made specific reference to the Lomé Convention and to Article 5 therein. The Marín-Matutes Paper acknowledged that there was no explicit call for sanctions within the provisions of the Article but contended that the spirit of the Convention allowed for certain consequences if Article 5 was breached. The Paper further outlined the need for support of democratisation through the active promotion of democracy in its development partners. Such a model depended on the empowerment of non-state associations which, it argued, could mobilise human potential more successfully than could the centralising power of the state. The Paper stressed the importance of accountability and good governance in the conduct of recipient governments. It concluded by highlighting the involvement of the general populace in the process of development.

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<sup>42</sup> Single European Act in *Treaties Establishing the European Communities*, Abridged edition, p.566.

<sup>43</sup> Commission Statement, circulated under cover of ACP/42/011/91, p. 2.

The Marín-Matutes Paper might have been only a discussion document and thus not agreed official policy. It did signal, nonetheless, a potentially new emphasis in the cooperation policy of the Community and, certainly, one with likely implications for the ACP. The Paper restated the principles of effectiveness and accountability which had been raised in the Pisani Memorandum.<sup>44</sup> More importantly, the Paper posited future development policy as being predicated on the observance of good governance. It linked adherence to human rights principles and the promotion of democracy to development and the provision of development assistance. The conditional elements were identifiable as was the element of sanction. The document might not have been official but the high-level nature of its sponsorship meant that it carried a stamp of authority and was being considered as a policy option. As it turned out, the policy proposed in the Paper was later ratified by the European Council,<sup>45</sup> thus confirming the new emphases in development cooperation policy.

### **2.2.2 Development Cooperation to the Year 2000**

The Marín-Matutes Paper had set the basis for a linkage between development and good governance. The linkage was confirmed by the Commission's overview on its development cooperation policy,<sup>46</sup> circulated in

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<sup>44</sup> See Section **2.1.1** above.

<sup>45</sup> European Council Resolution of 28 November, 1991.

<sup>46</sup> Commission of the European Communities, *Development Cooperation Policy in the Run-*

September, 1992. The overview was wide-ranging in its analysis. It outlined the changed nature of interdependence following the end of the Cold War: countries of the South no longer served as "relay stations" in the Cold War context and could no longer obtain the unconditional support which they might have come to expect.<sup>47</sup> Aid donors would increasingly face efficiency criteria in the allocation of aid.

The overview laid out the basic premise of the Community's cooperation policy as encouraging the consolidation of democracy in the developing countries within the framework of political stability.<sup>48</sup> It also drew on the development cooperation provisions of the Maastricht Treaty<sup>49</sup> to identify certain basic objectives in pursuit of that basic premise.

The first objective, the consolidation of democracy in developing countries, would be achieved through the reform of the state and the political system. Such reform would include the administrative structures and resources; the strengthening of the private sector; and decentralised cooperation. The second objective, sustainable and economic development, would be pursued primarily through

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*Up to 2000*, SEC(92) 915 final/2. This was one of the overviews, periodically submitted by the Commission to the Council and Parliament, which serve as the basis for discussion and as a source for future policy.

<sup>47</sup> Ibid., p.8.

<sup>48</sup> Ibid., p.11.

<sup>49</sup> See Title XVII of the *Treaty on European Union*, generally termed the *Maastricht Treaty*, for the development cooperation provisions.

macroeconomic stabilisation, economic liberalisation and environmental sustainability. The third objective was the integration of the developing countries in the world economy through greater North-South technology transfer and industrial cooperation. Finally, the three objectives would contribute to a campaign against poverty.<sup>50</sup>

The role of aid was explicitly expanded to serve as leverage, in bilateral relations, for the implementation of good economic and political reform. The concept of policy dialogue, reflective of the progress on the conditionality path since the Pisani Memorandum, was recast as a political dialogue. The objective of the dialogue was to have the necessary political and economic reforms adopted.

The document was, thus, quite explicit in its endorsement of multiple conditionality but it also introduced two important aspects into the implementation process of such conditionality. First, it emphasised the importance of ensuring that recipients were held to the conditionality contract.<sup>51</sup> It also recognised, concurrently, that there was a critical need to have the recipients identify with, and assume ownership of, the requisite reforms:

"Consequently, in its cooperation policy, the Community must ensure that the promises made by the recipient countries are really kept, for this will determine the

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<sup>50</sup> *Development Cooperation Policy in the Run-Up to 2000*, pp.11-13.

<sup>51</sup> *Ibid.*, pp.16-17. The Community proposed that the reforms required by conditionality would form a long-term process in a "contract" of true partnership between sub-Saharan Africa and the Community.



effectiveness of its aid...

... We must take care that the country in question carries out the necessary reforms, and that these are not merely imposed from without."<sup>52</sup>

The second aspect introduced to the implementation process related to donor coordination which, the document affirmed, was vital:

"In every country receiving aid, it is the responsibility of the various donors to see that the set of conditions attached to their contributions is consistent with those of other donors..."<sup>53</sup>

The proposals within the overview, thus, highlighted two further developments in the evolution of the conditionality model. It first removed some of the earlier reassurances given to the ACP during the negotiation of the SAS. The Community's model would take on the more rigorous nature which characterised the MFI approach and contained a clear commitment to donor coordination. It would also be blended more into a global approach to help prevent ACP countries playing off one donor against another. It should, however, be noted that Community did retain its insistence on an individual and unique treatment of recipients. Secondly, the proposals recognised that recipient states were key to the success of the programmes as the proposed reforms had to gain their active support if they were to succeed. There was thus a dualism of rigorous enforcement of conditions and of

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<sup>52</sup> "The Community's Relations with Developing Countries in the Context of Political Union", *Annex to The Development Cooperation Policy...*, op. cit., p.56.

<sup>53</sup> Ibid., p.56.

the need to ensure recipient ownership of the programmes. It is in this interplay of enforcement and recipient ownership that scope arises for bargaining between donor and recipient.

### **2.2.3 Pons Grau Report**

The third step on the path to multiple conditionality in Community policy took the form of action within the ACP-EEC Joint Assembly. I need to dwell briefly on the role of the Assembly. It is not a decision-making body of the Convention but it serves as a consultative forum which has acquired an increasing importance in ACP-EU councils. The composition of the Assembly is a major contributory factor to its importance. It consists of ACP Parliamentarians i.e., politicians in the main, and Members of the European Parliament (MEPs) on the Community side. The European Parliament, from which the European MEPs are drawn, has been acquiring greater influence and power in Community policy as European political cooperation has deepened. Consequently, the image of the Joint Assembly has grown and its deliberations have taken on added effect as the ACP has come to regard the MEPs as sources of some influence in the Community.

It should be noted, however, that neither the ACP nor the EU considers the Joint Assembly a *bona fide* organ of the Convention. Its origins were as a Consultative Assembly and that image of an advisory body has persisted. While many ACP states have cultivated MEPs over the years as possible sources of influence in the Community, any such influence derives

from their role as MEPs, not as members of the Assembly. The Community and the Commission take less account of the Assembly. There has been a long-running battle, between the Community and the Assembly, on the issue of accountability. The Assembly has claimed that the President of the Joint Council of Ministers is obligated to appear before the Assembly to answer questions on the workings of the Lomé Convention. The President has never appeared nor has the Commissioner for Development. A senior official of the Commission is usually assigned to deal with the questions which are submitted beforehand.

An annual feature of the Joint Assembly is the preparation of a Report, on an issue of major interest, by a Rapporteur-General appointed alternatively from the ACP and Community members. The Report for the meeting of 1992 focused on the topic, Democracy, human rights and development in the ACP countries. It was prepared by a Spanish socialist MEP, Josep Pons Grau, as Rapporteur-General. The Report is normally considered a personal document but it does generate lengthy consultation among members on the side of the Assembly in which it is drawn up. So, personal though the Pons Grau Report was, its submission was also reflective of commonly-shared views of the European members of the Joint Assembly.

The Reports are not consensus documents as they are subject to a vote on their contents. On controversial texts, the vote often breaks down into an ACP/MEP divide. One reason for the divide is that the tone of the Rapporteur-General's Reports does vary. Many are mere testament to the positions of the grouping of MEPs to which the particular Rapporteur-

General belongs. In such cases, strident sections of the Report may so alienate some MEPs that they vote with the ACP in opposition. More generally, the Reports are usually identified with one or other side of the Joint Assembly. In cases of conflict, they thus attract the wide support of the Rapporteur-General's constituency, either MEPs or ACP. In a word, the Reports are viewed as partisan in such circumstances.

The Pons Grau Report itself sought to be even-handed in its treatment of the subject.<sup>54</sup> It attempted to differentiate between democracy and mere political pluralism. It tried to avoid generalisations about the applicability of democratic models and the rule of law, given the heterogeneous nature of ACP states and societies.<sup>55</sup> It argued in favour of a more equitable multilateral trading system. It also supported the contention that development could not be based on external assistance alone but must be complemented by homegrown efforts on the part of African countries.<sup>56</sup>

However, the Report was unequivocal on the new reality arising from the need to adhere to human rights principles. It asserted that this reality meant the end of the principle of non-interference in the internal affairs of a state. The principle had yielded to the *obligation* to interfere actively and in favour of democracy. The Report stated explicitly that measures should be put in place to monitor respect for

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<sup>54</sup> See Working Document by the Rapporteur-General of ACP-EU Joint Assembly on Democracy, human rights and development in ACP States (AP/559).

<sup>55</sup> Ibid., pp.5-6.

<sup>56</sup> Ibid., p.9.

human rights and to punish those states which violate that principle.<sup>57</sup> The Report also addressed the issue of Article 5 of Lomé IV, arguing that the Article constituted a legal provision which justified intervention in cases of the violation of human rights. It allowed for both positive measures in support of the promotion of human rights principles and negative measures as sanctions against violators.

The draft resolution,<sup>58</sup> which emanated from the report of the Rapporteur-General for the consideration of the Joint Assembly, was far less compromising. It developed a severe criticism of the ACP countries as a justification for strong action in several areas relating to multiple conditionality. It called for a series of measures designed to achieve specific objectives. Those objectives included the following: democratic participation; reduction of the state and Civil services; reduction of military expenditure and militarism; and the recognition of Article 5 as a contractual clause empowering action against countries which disregarded democratic criteria.

In pursuance of the proposals for action, the draft resolution called on the *Commission and the Council of Ministers* to play the decisive role. They were to identify the methods and criteria to be used in defining respect for democracy and human rights as well as the nature of the sanctions to be applied. It also called for the Joint Assembly to serve as a forum

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<sup>57</sup> Ibid., pp.10-11.

<sup>58</sup> See Draft Report by the Rapporteur-General on Democracy, human rights and development in the ACP States, Part A: Motion for a Resolution (ACP/EC 687/92).

for exerting pressure on ACP national governments to implement measures relating to human rights, democracy and sustainable development.

The draft provoked considerable opposition from the ACP Group which sought to moderate its provisions by tabling numerous amendments to it. It was also clear to the ACP that the draft resolution was both partisan and controversial. It thus divided the Joint Assembly along firm ACP/MEP lines. So contentious was the issue that it reached an impasse at the Luxembourg Meeting in September, 1992 when it was presented. No agreement could be reached and voting was postponed. A compromise draft, acceptable to both sides, was only approved the following year in Botswana in March, 1993.<sup>59</sup>

Despite the failure of the original draft resolution to gain the approval of the Joint Assembly, the episode of the Pons Grau Report was of vital significance on the path to multiple conditionality. It was, first, a stark representation of the nature and demands of multiple conditionality in the Lomé relationship. The proposals brooked no compromise between ACP sovereignty and democratisation or the observance of human rights. It sought direct intervention by the Community, upon the latter's determination, when principles were breached.

The Pons Grau Report also demonstrated the level of polarisation between the ACP and the Community, as reflected in the European Parliament, on the question of multiple conditionality and good governance. The

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<sup>59</sup> See ACP-EC 687/93/A/fin.

Parliament had been a source of support, on a number of issues, to the ACP during the Lomé relationship and had often been an empathetic forum for ACP concerns. On the issue of democracy and human rights, the tenor of Community thinking was resolute. Even a potentially supportive body, as the Parliament, had followed the lead of perceived opinion and had assumed a firm and inflexible position on the issue.

#### **2.2.4 Mid-Term Review**

The three issues represented significant steps on the path to multiple conditionality. It came as no surprise that the Community consolidated the progress made by those steps, and by the earlier advances dating from the Pisani Memorandum, into its proposals for change in the Convention during the Mid-Term Review of Lomé IV. The proposals were made against the background of several factors: the international political and economic developments in the late 1980s; the provisions, within Article 130u of the Maastricht Treaty, which made development cooperation a legitimate Community policy area; and the logic of the Commission's overview of development cooperation to 2000 which stressed good governance and conditionality as priority strategies.

Among the principal objectives of the changes proposed by the Community were:

- (a) the fostering, through development cooperation policy, of democratic values, the rule of law and good governance as well as "respect for and enjoyment of human rights" which already existed in the Convention;
- (b) the enhancement of the ACP-Community

dialogue to ensure that the development strategies of the ACP meshed with the Community's cooperation policy and thus provided the Community with the instruments required to pursue the policy".<sup>60</sup>

The Community proposals for change called for specific amendments in the existing Convention in several areas related to the objectives of multiple conditionality. In pursuit of the principles of democracy, the rule of law and good governance, the Community proposed that an "essential element" be inserted in Article 5. This element stated that development cooperation policy be associated with the consolidation of the three principles. Positive measures, in the form of concrete funding, would be provided in support of action to foster the principles.<sup>61</sup>

On decentralised cooperation i.e., strengthening civil sectors, changes were proposed to ensure that ACP states indicate the level of resources allocated to such cooperation. The criteria governing the financing of the cooperation, from Community aid, were

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<sup>60</sup> Explanatory Memorandum to Community's Proposals for Mid-Term Review, pp.9-10.

<sup>61</sup> See "'Incentive Envelopes': A Critical Assessment", Lomé IV Review, NGO Briefing 5. The proposal was to provide funds to encourage satisfaction of the elements of good governance and sustainable development. It was based on the allocation of funds from "incentive envelopes" for those states which met the criteria. It is important to note that the judgement as to whether the state involved met the criteria would depend on the outcome of the policy dialogue with the Community. As I point out shortly, changes were also being proposed to enhance the role of the policy dialogue.



also spelt out. Further, the Community proposed the elimination of existing provisions in Lomé IV which required the express agreement of the ACP state before eligible agents could benefit from Lomé resources.

The role of policy dialogue in the donor-recipient relationship was considerably expanded in the Community's proposals. The new dialogue was to be the mechanism permitting a mixing of the ACP state's development objectives and the priorities of the Community's cooperation policy. The mechanism represented a magnified policy dialogue. As was shown earlier, it was intended for application during the most appropriate moment for such dialogue, the programming exercise.<sup>62</sup>

The primary concern of the Community was the need to overcome the apparent rigidity of choice of ACP states in projects and programmes once their indicative planning figures (IPFs) had been indicated. For the Community, the enhanced dialogue offered the opportunity to discuss not only overall programme coherence, as with policy dialogue, but also the specific elements contained in a recipient's indicative programme. In order to ensure that the final elements conformed to the conclusions of the dialogue, the Community proposed changes in procedures.

It also proposed to change the manner of allocation of resources. Both of those changes helped

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<sup>62</sup> It will be recalled that the Community had managed to introduce the basic elements of policy dialogue during programming for Lomé III. See Section 2.1.2.

to stagger the process of programming over several phases. The allocation of the IPF was to be made in installments. Notification of the first tranche would not be considered as a commitment to provide the remainder. Progress to each subsequent stage was dependent on the ACP states satisfactorily completing the preceding phase. They thus allowed approval of the final programme to be made dependent on common agreement or, at least, on the Community's approval of a state's performance.

With the proposed changes, the Community had reached the end of its journey along the path of conditionality: the inclusion of multiple conditionality in the Convention itself. The journey had started with a concept of inverted conditionality which had been put into effect indirectly during programming. It had continued through structural adjustment and FMOs to reach its destination. From a Community perspective, the path might have been inadvertently chosen after the Pisani Memorandum but its evolution was inherently logical and continuous. The question which arises, consequently, is what perception did the ACP Group have of the process and what was its reaction?

### **2.3 ACP's INITIAL REACTION**

The above journey reveals a continuous evolution of the Community along the path to multiple conditionality. An analysis of the same steps, from the ACP Group's perspective,<sup>63</sup> indicates that ACP

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<sup>63</sup> The reference here is generally to the ACP Group in Brussels. I have earlier highlighted a gulf

perceptions of those steps differed vastly from those of the Community. They failed to note the significance or the increasingly conditional nature of the various steps.

### **2.3.1 Policy Dialogue**

The ACP assessment of policy dialogue was remarkably accurate in one sense. It was correctly viewed as an attempt to introduce conditionality into the Lomé relationship. It was an attempt to undermine the sovereign right of ACP states to determine their priorities for both Lomé and national programming. The ACP Group took close note of the Pisani Memorandum and highlighted the danger of policy dialogue as a major concern in the preparation for negotiations on Lomé III.<sup>64</sup>

The Group, therefore, fought a determined battle to prevent its inclusion into the Convention and succeeded in having the concept excluded. While the Convention did mention a dialogue, it was a vague, general reference. It was clear that the thrust for policy dialogue had been defeated. In a manner which was to be a precursor of several similar reactions, the ACP considered the matter closed once the battle

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between officials in Brussels and those in capitals when I dealt with the regional programming exercise in the Caribbean. The ACP capitals were usually involved in Lomé negotiating matters only on specific issues. It was, however, the Group, in its Brussels manifestation, which responded to Community proposals on a continuous basis.

<sup>64</sup> *Memorandum on the Position of the ACP Group in its Future Relations with the European Economic Communities*, op. cit., p.38.

had been won in the negotiations. However, the Community did manage to persuade several ACP states to adopt a form of policy dialogue during the policy exercise in spite of the ACP triumph in the negotiations. The outcome was a telling indictment of ACP misperceptions of the nature of Community cooperation policy. It was also indicative of the fact that an idea once mooted, and approved, takes on an auto-dynamism within Community policy. It is a process which is difficult for forces, external to the Community policy-making, to deflect. The ACP had relaxed once the current danger of the policy dialogue proposal had been turned away. The proposal had, however, generated its own momentum against which the ACP failed to guard.

A second explanatory factor in the ACP failure to avert policy dialogue definitively lay in the organisational deficit which exists between ACP representatives in Brussels and ACP policy-makers in capitals. It appeared that the full nature of the policy dialogue proposal was not transmitted to, or considered seriously in, national capitals. The experience of the Caribbean regional programming substantiated that fact. Officials in capitals were not sufficiently alert to the insertion of policy dialogue in the programming exercise. The conclusion drawn by ACP representatives, and bolstered by the organisational deficit, was that the contentious issue of policy dialogue had lost its salience once Lomé III had been agreed. That conclusion was the first of several ACP misperceptions of the signposts on Community progression towards conditionality.

### **2.3.2 Structural Adjustment**

In discussing the inclusion of structural adjustment support in Lomé IV, the ACP Group was insistent that the Community programme should be unique. It was not to be designed, or used, as an extension of the traditional MFI model, and its conditionality, into the Lomé arrangement. During the negotiations on the proposal for the SAS, the Community sought to allay ACP concerns about MFI-type conditionality. It asserted that its SAS was intended to help ease the problems caused by existing ACP structural adjustment programmes. Its resource base was limited<sup>65</sup> and, as such, would have to be narrowly focused. Its emphasis was on helping to alleviate the "negative social effects that may result from the process of adjustment efforts".<sup>66</sup>

The ACP concerns were also assuaged by Community reassurances that its SAS would be unique. Two features characterised that distinctiveness: its qualifying criteria based on the three-tiered approach<sup>67</sup> and its explicit recognition of the individuality and developmental choice of ACP recipients.<sup>68</sup>

For the ACP, the conditional aspect of the SAS was practically non-existent, subordinated as it was to a programme which was both unique and supportive of

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<sup>65</sup> See Section **2.1.3**, footnote 30 for a breakdown of SAS resources.

<sup>66</sup> Article 244 (f), Fourth ACP-EEC Convention.

<sup>67</sup> The three qualifying criteria for the SAS are outlined above in Section **2.1.3**.

<sup>68</sup> Article 244 (b), (d) and (e), Fourth ACP-EEC Convention.

ACP efforts. The Group accepted the Community's contention that there was a distinction to be drawn between the SAS and the MFI model. The SAS was seen, by the ACP, as a welcome contribution to the overall framework of structural adjustment and reform. It also contributed to an area within the overall frameworks i.e., the social dimensions, which was usually neglected in the traditional structural adjustment programmes. Thus, in the context of the evolution of conditionality, the ACP did not consider the SAS a constraint or a hindrance to their choice and exercise of development priorities. In fact, the SAS was viewed as an asset and a source of additionality to the pool of EDF resources.

### **2.3.3 Stabex and the FMOs**

The ACP perception of the frameworks of mutual obligations was less positive than it was of the SAS. The ACP reacted negatively to the FMOs which it saw as a set of new and more stringent terms governing the use of Stabex receipts. They were not, however, viewed as conditionality as the ACP Group had no suspicion that such a process was underway. Additionally, Stabex benefits accrued only to some of the ACP states. The constraints of the FMOs were thus not applicable to, nor generally appreciated by, the rest.

The FMOs were proposed in an attempt to ensure that Stabex allocations were genuinely utilised in the relief of problems affecting the sector suffering from a loss in export earnings. Stabex funding also faced a constant problem in recent years whereby the annual allocations were outweighed by the level of claims from recipients. As a consequence, the Community had

to seek unutilised resources in various parts of the Convention. The FMOs were intended to introduce efficiency and accountability in the use of Stabex receipts.

However, the fact that the ACP had not acquired an awareness of the progression from policy dialogue to the SAS meant that the ACP concern about the FMOs was specific to the FMOs. Its concern was not placed in the wider context of an evolution towards conditionality. The FMOs were seen as an isolated attempt to achieve efficiency and, if possible, a minimisation of the cost of the Stabex programme. What they were not considered to be was part of a discernible process leading to conditionality.

## **2.4 ACP'S REACTION TO SIGNPOSTS TO MULTIPLE CONDITIONALITY**

### **2.4.1 Marín-Matutes Paper**

The emergence of the first signpost on the road to multiple conditionality only produced a muted ACP response. That response was due to two main reasons. The first was that the document was portrayed, by the Community, as an internal discussion paper for the consideration of the Commission. It was not a policy proposal which demanded an ACP response. To many in the ACP Group, that explanation was sufficient for it was unclear what form an ACP response should take on an issue which was not a specific proposal for action. The policy orientations, within the Paper, also presented a tactical dilemma for many ACP states. There were states in the ACP Group which were sympathetic to the principles of good governance but

were unwilling to accept a unilateral imposition of sanctions by the Community.

The second reason for the muted ACP response was technical. The ACP Group was faced by the novelty of possible changes which were most alien to the existing nature of the Convention. It just did not know how to respond to the emphases on democratisation, the rule of law and observance of human rights. Other than a formal objection to the insertion of political factors into an economic and trade Convention, the ACP's scope for a coherent response was limited.

Some, within the Group, contended that the Treaty allowed for an exclusion for the ACP from such conditionality.<sup>69</sup> They based their interpretation on the very provisions on development cooperation in the Maastricht Treaty from which the Community drew its emphasis on good governance. Article 130u(2) stated that:

"Community policy in this area shall contribute to the general objective of developing and consolidating democracy and the rule of law, and to that of respecting human rights and fundamental freedoms."<sup>70</sup>

Yet, two sections later, the Treaty affirmed:

"The provisions of this Article shall not affect cooperation with the African, Caribbean and Pacific countries in the

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<sup>69</sup> This appreciation of ACP positions was gained from my discussions with both diplomatic rep[resentatives and Secretariat officials. It is just one of many such insights which I was offered, as noted in the **Introduction**.

<sup>70</sup> *Treaty on European Union*, Title XVII.



framework of the ACP-EEC Convention."<sup>71</sup>

That ACP interpretation might well have been a misreading of the Treaty. The provision fell within a section which dealt with the adoption of measures or programmes designed to further the objectives of Article 130u. It might thus have been intended to indicate that the new programmes would not cut into ACP resources. Moreover, there was no plausible reason why the Community should have exempted the ACP from the emphasis on good governance. Within the constraints of its low-key response, the claim of exemption was the sole substantive reaction of the ACP. In short, the prevailing view of the Group was that it was facing a "non-paper" of which the Group should take note and await further action by the Community. The easiest course of action under the circumstances was to accept the Community's explanation that the paper was purely for internal consumption.

#### **2.4.2 Pons Grau Report**

The ACP Group had a much more decisive reaction to the Pons Grau Report and the subsequent draft resolution. The Report and its follow-up were viewed as concrete manifestations of the changes which the Marín-Matutes "non-paper" had intimated. The ACP reacted very strongly and negatively to the Pons Grau assessment and, in particular, to a harshly critical report on ACP Governments and their style of governance. Thus, what emerged from the report and the draft resolution was an impasse. Voting on the draft

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<sup>71</sup>Ibid., Article 130w(3).

had to be suspended to permit consultations between the two sides. A compromise was only reached at the next meeting of the Assembly in March, 1993.

The Pons Grau Report marked a decisive moment in ACP thinking. For the first time, the Group was made aware of two important facts. They were the depth of Community thinking on the need for stringent conditionality and the very narrow room, in Community policy, for compromise with that principle. By the time of the amended draft resolution in 1993, the Commission had produced its overview on development in the run-up to 2000 and it had been digested by Council. It was clear that the policy proposals in the draft resolution represented the position of a wide section of the Community in advance of negotiations.

In spite of the distance along the conditionality road which the Community had travelled and the sobriety which that indication had brought to the ACP, the latter Group still retained some hope of avoiding the inevitable. It drew some comfort from the manner and venue of presentation of the Pons Grau Report. The Report seemed caught up in yet another ACP/MEP division. The Reports of the Rapporteur-General did not usually carry a decisive weight with the Community, given the low level of credibility which the Assembly enjoyed in the EU. The ACP was therefore hopeful that the Pons Grau Report would not have a more significant impact than other such Reports.

Secondly, some further solace was gained from the fact that firm ACP opposition had forced a rethink of the initial harsh criticisms and had led to a less divisive compromise. The latter development held out

the hope that any similar proposals from the Community, within the Lomé arrangement proper, would also be subject to negotiation. There was thus a similar possibility of compromise.

There was, however, a cause for some concern in the ACP camp. Along with the seeming homogeneity of the MEPs' position came the reality that some ACP states were understanding of the MEPs' thrust for good governance. Those states consisted of three different factions. The first grouping comprised those states which had recently undergone political change as a result of the democratisation trends. They were mainly, but not wholly, African. They included Zambia and Benin. The latter's representative at the Joint Assembly in Luxembourg was a new parliamentarian whose party had benefitted from the opening-up of politics in Benin. He played an active role in an unsuccessful attempt to build an ACP compromise with the original Pons Grau resolution.

The second grouping was mainly Francophone African and included states such as Gabon. They were drawn from those states which had then pledged themselves to the democratic process through national conventions. They were keen to show that their commitment was genuine. They could not be seen as opposed to the concepts of democratisation and good governance. The third faction was a disparate set of neutral observers, mainly from the Pacific and the Caribbean. They were sufficiently secure in their democratic traditions that they saw no inherent danger in the Pons Grau recommendations. This group was not going to lobby for their acceptance but they did not think that the matter merited a frontal battle.

Although their voices were stilled in the overwhelming opposition to the draft resolution, they remained an internal force for dissent and potential division. The Pons Grau Report and its aftermath had brought home to the ACP the fact that conditionality was a Community focus whose time was coming.

#### **2.4.3 Development Cooperation Policy**

The overview of the Commission on development cooperation confirmed, to the ACP, the entrenchment of conditionality within Community policy-making. It served as the basis for Community positions for the Mid-Term Review. It left little doubt that conditionality, and multiple conditionality, was to be a primary focus of Community amendments to Lomé IV.

The presentation of the overview in September, 1992 was close to the Joint Assembly discussions on the Pons Grau Report. Their subsequent evolutions overlapped, helping their messages to reinforce each other. If anything, the unyielding attitude of the MEPs on the Pons Grau draft resolution suggested that the future debate on conditionality would see a similarly direct approach from the Community. The argumentation for, and the justification of, the inclusion of multiple conditionality left little doubt that the Lomé relationship was being totally changed.

#### **2.4.4 Mid-Term Review**

The ACP's response to the contents of the overview was subsumed in the Group's preparations and positions for the Mid-Term Review. So firm was the Community's attitude that the ACP Group seemed quite

resigned to the inevitability of conditionality. The sole recourse of the Group was to attempt to mitigate its likely effects. The ACP Group expressed its willingness to have the principles espoused by the Community introduced into the Convention as an amendment to Article 5.<sup>72</sup> The Group affirmed, "within its own sociocultural environment, its abiding faith and deep commitment" to the principles espoused by the Community.<sup>73</sup> The Group, however, did insist that the introduction of principles should be "without direct or indirect conditionalities or cross-conditionalities". The Group was deeply concerned about possible unilateral interpretation by the Community. The ACP thus argued the need for an effective mechanism for the settlement of disputes arising from perceived contravention of the principles.

On the companion issue of policy dialogue, the ACP had no stated position on the Community's proposal for an enhanced policy dialogue and the establishment of a linkage with the priorities of the cooperation policy of the Community.<sup>74</sup> The ACP had, it seemed, bowed to the inevitability of the introduction of conditionality during the Mid-Term Review. It had chosen, instead, to concentrate on improving the substantive provisions of trade cooperation.

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<sup>72</sup> See *chapeau* to this Chapter, p. 65 above.

<sup>73</sup> ACP Group, "The Mid-Term Review of the Fourth Lomé Convention: Explanatory Memorandum" (ACP/27/001/94 Rev.3), p. 33.

<sup>74</sup> "Mid-term review of Lomé: Main themes and negotiating positions", *The Courier* no.146, July-August, 1994, pp.IV-V.

## **2.5 UNINTENDED ACP CONTRIBUTIONS**

The foregoing examination depicted the Community as the architect of a policy which progressed to multiple conditionality. It presented the ACP as largely reactive and captive of Community initiatives. This picture is not comprehensive for it fails to include some important contributions to the emergence of conditionality. Strange as it might seem, the ACP Group made several contributions which assisted the evolution of the policy. None of these ACP contributions was consciously intended to promote conditionality, being all designed to further perceived ACP interests. Nonetheless, the decisive effect of them all was to remove several safeguards against the intrusion of political elements into the Lomé relationship. The measures arose from the promotion of sociocultural and sociopolitical issues as valid areas for inclusion in Lomé III and IV respectively.

### **2.5.1 Lomé III: Sociocultural Elements**

Social and Cultural Cooperation: At a general level, the unintended contributions of the ACP to the progression to conditionality began during the negotiations for Lomé III. Against considerable Community opposition and in the face of strong internal dissent, the ACP negotiated successfully for the inclusion of a social and cultural chapter. The promotion of the provisions was largely the work of Ambassador Raymond Chasle of Mauritius. He faced an uphill battle. He was bluntly told by one French Minister that his efforts would never succeed. Within

the ACP, there were several states which felt that the focus on social and cultural matters detracted from more substantive concerns. Those states were concerned that the inclusion of the new area would divert funds from the material concerns e.g., Stabex and programming. On the face of it, nothing in the chapter directly addressed, or served as support for, conditionality.

More relevant was the symbolic effect of the insertion of social and cultural factors into the Convention. It signalled the willingness of the ACP to put an end to its own long-held position viz., that the Convention was an agreement covering trade and economic cooperation. Lomé was now moving into *non-economic* areas at the ACP Group's insistence. The Group itself had removed the barriers. It would not be able to turn back any further extension of the coverage of issues in the Convention.

Man at the Centre of Development: Lomé III also produced a conceptual shift in the Convention. A major innovation was the emphasis on the principle that man was at the centre of development.<sup>75</sup> This might have seemed a truism. However, for a Convention predicated on relations between a Group of developing states and a Community of states, the reduction of its interaction to the lowest common factor was an important deviation. The stress on the principle was linked to the need to justify the inclusion of sociocultural concerns. Cultural expression was not an emanation of a state but rather a representation of the character of the individual or a group of people.

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<sup>75</sup> Article 10, Third ACP-EEC Convention.

Placing man at the centre of development also meant that the needs of the individual could no longer be considered as subordinate to the needs or the priorities of the state. Its relevance to human rights concerns should not be ignored. An emphasis on the individual suggested that states could not legitimately resort to an oft-used argument. Many ACP members claimed that they had, on occasion, to override individual rights in the interests of the wider society. Their argument was that they had to do so if they were to guard against ethnic or tribalist conflicts or to promote equitable development.

Again, a well-intentioned ACP initiative had sown the seeds for a subsequent undermining of one of its long-standing tenets. It was the ACP which had consistently opposed the Community's imposing human rights considerations in an economic cooperation agreement. The tenet was actually abandoned later, in Lomé IV.<sup>76</sup> The process of its decline had, however, begun with the elevation of man to the heart of cooperation in Lomé III.

### **2.5.2 Lomé IV: Sociopolitical Elements**

The negotiation of Lomé IV heightened the trend of laudable ACP initiatives leading to negative outcomes for the Group. Three issues - human rights, the environment and decentralised cooperation - were illustrative of the trend.

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<sup>76</sup> The ACP definitively abandoned the tenet, with the inclusion of Article 5 in Lomé IV.



Human Rights: The new emphasis on man at the centre of development had set the scene for a valid debate on the human rights issue. It was a constant concern dating back to the implementation of Lomé I.<sup>77</sup> The issue meant different things to the two groups. To the ACP which had raised it during Lomé I, it was the basis for a discussion of the Community's relations with apartheid South Africa. To the Community which had broached the issue during the negotiations for Lomé II, it meant a discussion on the observance of human rights principles by ACP Governments.<sup>78</sup>

In the face of the latter interpretation, the ACP sought to contain a reference to adherence to the general principles in the preamble to the Convention. The Group succeeded in its objective. It feared that any more detailed accommodation of the Community would have two negative effects. It would have led to an intrusion into the internal affairs of its member states and to the eradication of one of the main planks of the *acquis*.

By the time of the negotiations for Lomé IV in 1988, circumstances had changed and had led to a variation in ACP policy. The Group wished to bind the Community to a meaningful discussion on South Africa. It considered that the insertion of provisions on

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<sup>77</sup> See Marjorie Lister, *The European Community and the Developing World* (Aldershot, U.K.: Avebury, 1988), pp. 157-159 and *passim*. for a treatment of the human rights issue, both during the implementation of Lomé I and the negotiations for Lomé II.

<sup>78</sup> The Community's concern about the issue had grown in the light of the excesses of Uganda under Idi Amin.

human rights in the body of the Convention itself would help to achieve its objective. The way had been prepared by the earlier agreement, between the two sides, to have periodic exchanges on Southern Africa at the level of the *troika*.<sup>79</sup>

The ACP had also been forced to take a firm stand on human rights principles by the change in the global political environment. The end of the Cold War meant that pariah states could no longer evade scrutiny of their human rights conduct on grounds of strategic importance. More specifically, the ACP had itself suffered from the conduct of some of its members. Sudan had been subject to constant criticism for its treatment of the inhabitants of the southern region. The matter had been raised several times in meetings of the Joint Assembly by MEPs. Burundi had also aroused the Group's concerns with the report of one of its periodic ethnic conflicts.

It was the considered view of the ACP that the success of its strategy of using human rights concerns as a mechanism for discussing Southern Africa was dependent on its own credibility. It had to put its own house in order and to be seen to be doing so. It could do so by addressing directly the question of human rights even if it implied condemnation of its own members. Thus, the proposal to include a direct reference to human rights emanated from the ACP as a clear demonstration of its own commitment. The provisions were embodied in Article 5 of Lomé IV.

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<sup>79</sup> The *troika* is a Community phenomenon which was borrowed by the ACP. It consists of the past, current and future Presidents of Council.

The outcome of the initiative was not as the ACP had intended or envisioned. Article 5 became a major cause of contention once it had been used, by the Community, as justification for the unilateral imposition of sanctions on Haiti. The intent of Article 5 had been to express a commitment to the observance of basic principles on human rights. It was wholly positive in design through the provision of support for efforts aimed at observing the basic principles.

The application to Haiti - however justified and it was seen as such by most in the ACP<sup>80</sup> - struck the ACP as an unacceptable extension of a negative interpretation of the Article. The lack of prior consultation with the ACP did increase the perception that the Community had acted unilaterally and raised the probability that it would do so in the future. The application took the interpretation in an unintended and unforeseen direction. The architect of the ACP initiative, Ambassador Chasle of Mauritius, later recognised this consequence. He stated that the intention had been to reinforce adherence to the basic principles and he had never imagined its use as a punitive measure.<sup>81</sup> The unintended effect of the initiative was dual. It provided a legitimate basis, within the Convention, for the discussion of ACP behaviour on human rights. It also led to its early use as a criterion of conditionality.

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<sup>80</sup> The regional grouping, the Caribbean, to which Haiti belonged was guided by similar sanctions adopted in the Organisation of American States.

<sup>81</sup> Interview with Ambassador Raymond Chasle, former Head of Mission of Mauritius in Brussels on 4 September, 1995.

Environment: A second area of social concern advocated by the ACP in negotiations for Lomé IV centred on the environment. The period of the negotiations was marked by frequent reports of developing, and ACP, countries being offered lucrative deals on the disposal of industrial waste. The ACP Group tried to pre-empt such ventures by seeking agreement with the Community on a ban against such exports from the latter's member states.<sup>82</sup> The proposal was resisted by the Community on various grounds. One reason given was the fact that dumping of waste was related to the commercial activity of private entities, over which the Community had no control. Such a ban would preclude intra-Community trade in waste. Finally, the Community suggested that the two sides would best be guided by the conclusions of the international Conference in Basle.

The ACP Group insisted on some form of agreement to cover all potentially harmful exports, from pesticides to toxic waste. Some, within the ACP, argued that the elevation of environmental concerns to the top of the negotiating agenda might lead to an undesired outcome. They urged caution since it was not clear that both sides shared a common perspective on the issue.

The compromise which resulted from ACP zeal and Community reluctance was a set of provisions which justified the caution of the ACP sceptics. The Community did agree to prohibit all direct or indirect

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<sup>82</sup> *Memorandum on ACP Guidelines for the Negotiations for a Fourth ACP/EEC Convention (ACP/00/012/88 NEG Rev.2)*, p.84.

export of hazardous and radioactive waste. On the other hand, it steered clear of a blanket commitment to prohibit the export of toxic waste which, in ACP eyes, was a more encompassing term. However, the Community managed to include a provision which altered immensely the thrust of the ACP initiative:

"The Parties, desirous of bringing real protection and effective management to the environment and natural resources, consider that the areas of ACP-EEC cooperation covered by Part Two of this Convention shall be *systematically examined and appraised in this light.*"<sup>83</sup>

The reference to Part Two of the Convention was to a section which covered all areas of cooperation. The Community had thus succeeded in making all projects and programmes subject to environmental impact assessments, as and when they were deemed necessary. This qualification has been termed the "environmental reflex" which has to be built into development projects and considered before approval. To the ACP, transparency has not been a characteristic of Community development policy. Bureaucratic delays in approval, commitment and disbursement of project add to the problems of programming. It can well be understood why the environmental reflex was viewed, by many in the ACP, as another obstacle in the process of project implementation.

The environmental assessments would obviously be at the behest of the approving body i.e., the Community in the form of the Commission. This outcome did not serve ACP interests for it gave the Community a wide-ranging and discretionary power. Once more, an

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<sup>83</sup> Article 38, Fourth ACP-EEC Convention (Italics are my addition).

ACP initiative had resulted in the imposition of a conditional criterion which the Group had neither desired nor foreseen.

Decentralised Cooperation: The third ACP initiative which took on unintended dimensions was decentralised cooperation. It also arose from the implementations of the social provisions of the Convention. It was argued successfully, in the ACP, that changes in resource allocation were required for the meaningful implementation of the social Chapter. They were also required by the emphasis on the individual as the centre of development. Resources would have to be allocated to groups and entities outside the state. Trade unions, youth groups, women and other non-governmental groups were identified as potential beneficiaries of Community aid.

Some ACP states were uneasy about the wisdom of the policy but were prepared to countenance its application. Many more were dissatisfied when the Community gained approval for its counter-proposal. Under that proposal, decentralised cooperation would be conducted directly between the body concerned and the Community, thus bypassing the ACP state.

The arrangement presented the ACP with some difficulties. First, the Convention was perceived as an agreement between states. A provision which formally excluded the ACP states from the allocation of IPF funds was unsatisfactory to many of those states. Their unease was magnified by the prospect of direct, unmonitored contact between the Community and domestic interest groups. Secondly, the concept, and the Community's interpretation, of decentralised

cooperation corresponded directly to two conditional elements i.e., reducing the state and decentralising political participation. As such, the concept gained an additional, restrictive connotation which had not been intended by the ACP.

Each sociopolitical initiative in Lomé IV, as had each sociocultural issue in Lomé III, generated an effect which was not initially perceived and which helped to undermine ACP positions. The ACP Group had hoped, through its initiatives, to introduce new and positive elements into the Convention. The result had been a constant diversion, by the Community, of those initiatives. The Community thus gained, for itself, additional leverage in each case and, overall, further scope for conditionality.

## **2.6 CONCLUSION**

The examination of the origins of multiple conditionality demonstrates that the Community might have started on the path unintentionally, with no fixed objective in mind. That lack of conscious planning probably explains why the process skipped formal macroeconomic reform. It did, however, develop an internal coherence and logic which revealed an easy and natural evolutionary flow from one stage to another. The ACP, on the other hand, saw most of the stages on the route as single issues which were the result of isolated strategic choices of the Community. It was only in the approach to the Mid-Term Review, after Lomé IV was well into force, that the ACP deduced that a policy, based on conditionality, was being fashioned.

The analysis highlights four points of significance for the future course of my study. The first is the self-confidence of the Community in its own ability. Its self-assurance has been drawn from the apparent ease with which it was able to build its programme of conditionality and, critically, from the ready compliance of the ACP with each new level. The experience suggests that the Community could fashion its programme without taking much cognisance of the concerns of the ACP Group. It also supports a perception that the Community could implement the programme with little fear as to the ACP's reaction. The ACP runs the risk, accordingly, of being marginalised or ignored in Community procedures for implementation of the Convention.

The second point of significance rests in the operational power which the Community, through the Commission, wields relative to the ACP. The interpretation of any provision in the Convention, for its application, is a matter for the sole discretion of the Commission. A literal interpretation can often be as damaging to ACP interests as a deliberately biased one. What is important, as the application of Article 5 substantiated, is that the final interpretation of provisions lies with the Commission. The ACP must accept the manner in which the Commission chooses to apply those provisions, whether they conform to the original intentions of the advocates or not.

The third point of significance is the existence of the organisational gap, within the ACP, between the representatives in Brussels and their principals in ACP capitals. The gap was visible in the Caribbean



response to the Community's approaches on policy dialogue but it is not a peculiarity confined to that region. It is a point to which I will return in my treatment of bargaining capacity as it relates directly to the effectiveness of the ACP Group in its negotiations with the Community.

The fourth notable feature demonstrates a weakness of ACP coalition-building and is drawn from the attitude of the MEPs during the Pons Grau debate. The ACP had often sought, and made, alliances with the MEPs on issues of import, most notably on the key issue of the level of funding committed to each Convention. The MEPs had threatened, on occasion, to withhold their approval of the negotiated text if the proposed amount of resources was not viewed as adequate for ACP needs. That predisposition was at variance with the inflexibility shown on conditionality and the Pons Grau report.

The conclusion which I draw is that the MEPs have been willing to support the ACP on those matters which help assert or increase their - the MEPs' - own strength relative to the Council. In short, the MEPs base their willingness, or not, to help the ACP on the relevance of the issue to the internal jostling for power within the Community. Conditionality offered no such promise. Consequently, alliance, or even compromise, with the ACP could readily be foregone.

**PART TWO**

## CHAPTER 3

### BARGAINING CAPACITY

In this Chapter, which is the first of those dealing with capacity, I examine the relational bargaining capacities which the ACP and the EU bring to the process of conditionality. These bargaining capacities include, first, those which appear relevant to discussions on conditionality. They also include those which have been generated during the experience of the Lomé Conventions i.e., up to the conclusion of the negotiations for the Mid-Term Review in 1995. In that sense, bargaining capacity is seen as relational in that it is cast in the specific context of ACP-EEC relations, drawing on the negotiating weight which each side has displayed in that relationship. It is not strictly relative in that it does not necessarily correspond to the weights which the two sides possess as separate groupings. The weight of the EU is disproportionately greater than that of the ACP. Its application, in such a match, would allow for little redress by the ACP. Thus far, in its relations with the ACP, the use of the EU's inordinately greater power has not been a common feature of negotiations.

I look at bargaining capacity from three perspectives. I first assess the capacity generated by factors *internal* to the relationship. Here, I examine *organisational structure* (format; technical support and continuity); the *relative weight* of the two sides in the relationship; and *command of information*. The second perspective covers *countervailing factors* i.e., those *external* to the relationship which might have

been used by one side or the other to augment its own weight or offset that of the other in the relationship. I cover *group presence; external credibility; external coordination; and domestic manoeuvrability*. The third perspective covered in bargaining capacity is that of the *expectations* which the two groups bring to the negotiations. These expectations are based on the projections which the groups form of the likely outcome of the negotiations and on assessments of the ratification process needed to implement that outcome.<sup>1</sup>

In this Chapter, I will focus on the first two perspectives. The third area of *expectations* is more specific as expectations will vary in each negotiation. I will, therefore, reserve the examination of that perspective for a specific set of negotiations in the following Chapter. In that Chapter, I will examine the applicability of bargaining capacity in the negotiations for multiple conditionality in the Mid-Term Review.

### **3.1 WHY NEGOTIATE?**

There is, however, a prior question which I must answer before turning to an analysis of the bargaining capacities which the two sides bring to the

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<sup>1</sup> See Robert D. Putnam, "Diplomacy and Domestic Politics: The Logic of Two-Level Games", *International Organization* 42 (Summer 1988), pp.435-437. Putnam divides the process of negotiation into two stages: Level 1, when bargaining between negotiators leads to a tentative agreement and Level 11, when each group of constituents discuss whether they should ratify the agreement. He further contends that the need for Level 11 ratification affects Level 1 negotiations.

conditionality process. The question is simple and direct although it demands a fairly comprehensive response: why should there be negotiations over the EU's intention to introduce conditionality into the relationship?<sup>2</sup> The question is based on the history of conditionality within structural adjustment programmes under the MFIs and within bilateral aid programmes. The perception is that the history has rarely shown recipient states as having much scope to alter standard prescriptions of conditionality by negotiation.<sup>3</sup>

The introduction of conditionality has been principally on a "take it or be left out" basis. Conditionality thus operated as a collateral of the loan process in financial areas<sup>4</sup> or as an allocative criterion in bilateral aid.<sup>5</sup> It was either a necessary action by recipients for the continued allocation of financial assistance from the MFIs or the qualifying condition which potential beneficiaries had to meet to

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<sup>2</sup> I am grateful to a friend and former colleague, Lloyd Searwar for raising this obvious but most pertinent question.

<sup>3</sup> The literature is discussed in Chapter 1, Section 1.3.2. See footnote 24 of that Chapter for an indicative list.

<sup>4</sup> See Paul Mosley, Jane Harrigan and John Toye, *Aid and Power: The World Bank and Policy-based Lending* (London & New York: Routledge, 1991), Vol. 1, pp. 66-67.

<sup>5</sup> The use of conditionality as a criterion in the allocation of aid is developed in Joan M. Nelson and Stephanie J. Eglinton, *Global Goals, Contentious Means: Issues of Multiple Aid Conditionality* (Washington, D.C.: Overseas Development Council, 1993).

obtain bilateral assistance.

My response to the question is that, in this case, there will be negotiation in either one or both of two instances. I will, first, give a general response in favour of negotiation before turning to the specific nature of ACP-EU relations under Lomé. Negotiation will be necessary because multiple conditionality goes beyond the normal transactions of a financial or economic arrangement i.e., loan conditionality, to encompass social and political factors.

Loan conditionality is a collateral for future loan tranches. Its satisfaction can be readily identified by the donor and rewarded or punished accordingly. However, the sociopolitical components of multiple conditionality require the recipient to play a pro-active role in ensuring the satisfaction of the conditional terms. The positive involvement of the recipient is necessary and compliance cannot be achieved by mere *diktat*. In order to comply with the requisite terms, the recipient has to be able to identify, and be willing to implement, the required tasks. The delineation of those tasks has to be part of a process which is agreed, even if not agreeable, i.e., through negotiation.

Secondly, the process of negotiation is represented in its first stage by the determination to pursue the programme of conditionality and by the identification of the nature of the conditions to be applied. It is followed by the later stage of implementation. Then, the set of criteria involved in the application of conditionality, the operational

details, must be sufficiently clear so as to permit implementation. Among the areas which need to be made predictable are the content of the terms, the timing of implementation, the scale of provisions and the triggering of sanctions in the case of evasion or slippage by recipients. At both stages - programme design and implementation - agreement on the criteria and on the process has to precede initiation, thus requiring negotiations at an early stage.

In the specific case of Lomé, an analysis of the options available demonstrates that negotiations would be necessary. The conditionality game<sup>6</sup> shows that conditionality, whether introduced as an ultimatum or as a proposal for consideration, leads to negotiations to identify terms and conditions of implementation. This design phase is followed by further negotiations at the level of implementation. In the event, the conclusions of the Mid-Term Review of Lomé IV illustrate the point. The first stage of negotiations, on programme design, has resulted in an agreement to have multiple conditionality included as provisions of the amended Convention.

The inclusion does not preclude the need for a second stage of negotiations to identify, and agree on, the content of conditionality. It is generally agreed that the principle of multiple conditionality

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<sup>6</sup> Mosley, Harrigan and Toyé use a three-stage model to describe the game of conditionality in structural adjustment (see *Power and Aid*, op. cit., Vol. 1, p. 76): at the stages of programme design, implementation and refinancing. Here, I am looking primarily at the stage of programme design.

in the Lomé arrangement lacks operational content.<sup>7</sup> The operational details have not been spelled out as to how conditionality will be applied, what level of infringements or what mix of violations will trigger sanctions. There is thus ample scope for negotiation at the stage of implementation.

### **3.2 FACTORS INTERNAL TO THE RELATIONSHIP**

The factors internal to the ACP-EU relationship on which I focus are the *organisational structure* of each group; the *relative weight* of each group in the relationship; and the relevant *command of information*.

#### **3.2.1 Organisational Structure**

In examining the organisational structure of the ACP and EU, I highlight three specific areas: form of representation; technical support; and continuity.

Form of Representation: Drawing on the typology of characteristics identified by Sjostedt, Spector and Zartman,<sup>8</sup> the respective capacities of the ACP and the

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<sup>7</sup> There are no specific details mentioned in the conclusions. The provisions are pitched at a very general level. See **Introduction** above for a description of the provisions.

<sup>8</sup> See Gunnar Sjostedt, Bertram I. Spector and I. William Zartman, "The Dynamics of Regime-building Negotiations" in Sjostedt, Spector and Zartman eds., *Negotiating International Regimes: Lessons Learned from the United Nations Conference on Environment and Development (UNCED)* (London/Dordrecht/Boston: Graham & Trotman/Martinus Nijhoff, 1994). The typology drawn from multilateral negotiations is discussed in Section **1.3.2**.



EU can be measured in three areas: *multiparty*; *coalition* and *consensus*. In the first area, multiparty, an analysis of the ACP Group in negotiation demonstrates the effects of multifaceted interests in each Group. The membership of the ACP stood at seventy (70) states, divided into six groupings, as of July, 1995:<sup>9</sup> 16 in West Africa, 10 in Central Africa, 9 in Southern Africa, 12 in East Africa, 15 in the Caribbean and 8 in the Pacific.<sup>10</sup> At of that date, the EU's membership was fifteen.

The EU follows what has been called a "mixed procedure"<sup>11</sup> in its representation. The Community is usually represented in Lomé negotiations by the Commission and an EU spokesman, although EU member states are present as part of the negotiating Group. At the level of the negotiating groups, involving the Committee of Ambassadors, the Commission speaks for the Community. In the Ministerial groups, the EU is represented by a "bicephalic head"<sup>12</sup> or negotiators in tandem i.e., a Ministerial representative and a senior Commission official.<sup>13</sup> In the latter case, it is the Minister who takes the lead as spokesman.

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<sup>9</sup> This time is chosen because it marked the date at which the negotiations on the Mid-Term Review were concluded.

<sup>10</sup> See Appendix 1, Table 1.

<sup>11</sup> See Paul Taylor, *The Limits of European Integration* (London: Croon Helm, 1983), p. 124.

<sup>12</sup> Ibid., p. 125.

<sup>13</sup> See *The Courier*, No. 120, March-April, 1990, pp. 10-11 for a classification, "The Structure of ACP-EEC Negotiations".

In any event, the Community exhibits a unified position on the issues under negotiations. It is clear that its negotiating stance has evolved from close internal coordination. In both forms of representation, the Commission functions as part of a collective Community group and as a representative of the member states. The conclusion which is drawn is fully in accord with that described by Taylor: the Commission is, in practice, an agent of the member states and liable to control by them, although allowed to act on their behalf.<sup>14</sup>

The ACP Group is represented in negotiations by a single spokesman although a different spokesman is chosen for each negotiating or working group. It is a system which dates back to the very outset of Lomé I. On any single issue, the choice of an ACP spokesman is usually a sensitive matter. It requires a delicate balancing of interests among many individual states and six separate groupings. The sensitivity and balance are exemplified by the reality of special interests. Where a particular region maintains special interests in Lomé, that region seeks to safeguard its interests by exercising some control over their negotiation.

The Caribbean is an example of a region with such special interests. The Caribbean states came to Lomé with a list of special commodities which are covered by Protocols viz., bananas, rum and, latterly, rice.<sup>15</sup>

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<sup>14</sup> Taylor, *The Limits to European Integration*, op. cit., p. 142.

<sup>15</sup> Sugar, though the major concern during the negotiation of Lomé I, is governed by a separate Protocol of indefinite duration and is thus not re-

These commodities enjoy preferential access for a specified level or quota of exports to the Community. The Caribbean states have sought, in all the negotiations and often against strong African opposition, to ensure their control of ACP negotiations on what are termed the Special Protocols. They have been successful in their efforts in that the Minister responsible for the negotiating group covering Protocols, normally the Trade Group, has usually been a Caribbean representative.

The relevance of this fact is demonstrated by the selection of Ministerial spokesmen for the last two negotiations. In the negotiations for Lomé III, there were twelve negotiating areas. One of the Caribbean spokesmen, the Minister from Guyana, had responsibility for the Trade Group<sup>16</sup> which included the Protocols.<sup>17</sup> In the negotiations for Lomé IV, the Caribbean briefly lost Ministerial control of the thematic group on Trade for the first negotiating meeting in Brazzaville in February, 1989.<sup>18</sup> By the convening of the next Ministerial meeting in Brussels in June, 1989, the Caribbean had sufficiently manifested its interest in its traditional areas of concern as to regain the post of spokesman for the

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negotiated at the end of each Convention.

<sup>16</sup> This group needs to be distinguished from the Commodities and Stabex group which covered agricultural commodities subject to normal export trade.

<sup>17</sup> See the list of ACP Ministerial Spokesmen, *The Courier*, No. 89, January-February, 1985, p.27.

<sup>18</sup> It should be noted that the day-to-day, operational control was continuously held by the Caribbean in the person of the Jamaican Ambassador.

Trade Group. The post was occupied by the Minister from Barbados.<sup>19</sup>

The Caribbean control of the Protocols brief has benefitted from an important fact. The only commodity, other than bananas, rice and rum, which is covered by a negotiated Protocol is beef. It is the primary concern of the Southern African grouping which does not normally have identifiable interests strongly opposed to those of the Caribbean. Southern Africa is thus quite willing to follow the Caribbean lead in this area, forming an issue-oriented coalition around the protection of their joint interests in the Special Protocols.

While the above example is an indication of the diversity of interests within the ACP, it is also demonstrative of the constraints facing the ACP in the two areas of *coalition* and *consensus*. With respect to coalition, the ACP Group faces a combination of constraints based on both numbers and interests. The ACP would seem to have reduced the problem of forging a coalition among seventy members by the mechanism of sub-dividing the Group into six regional groupings. However, the regional groupings represent a mixed blessing. The division into six does help to forge a common position more readily than would an attempt to do so among seventy. It is easier for a regional grouping of fifteen or sixteen neighbouring states to identify a common position for translation into an ACP position than it is for the overall group. At the same time, however, a deeply-held position of an individual

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<sup>19</sup> "The Structure of ACP-EEC Negotiations", *The Courier*, No. 120, March-April, 1990.

state can become entrenched among the members of a wider regional bloc through the mechanism of the regional coalition. The possibility of such an occurrence depends on the issue and its importance to the more influential members of each regional bloc.

There are several instances during the history of Lomé which support the view that regional groupings can be more divisive than cohesive within the Group. During the negotiations for Lomé I, the issue of sugar was, possibly, the first such example: the accommodation of the producers of that commodity was one, if not the, major obstacle to overall agreement. The point is granted that the commodity concerned both the Caribbean and the Pacific but it was of much less importance to the largest group, Africa. Similarly, during the negotiations for Lomé II, the need to satisfy the concerns of the Caribbean rum producers again posed a major obstacle to reaching agreement. Both of those issues have been well-documented in early studies on Lomé.<sup>20</sup>

There have also been several instances in which the internal unity of the ACP Group has been imperilled by the use of the regional card in support of the interests of an individual state. This has occurred most notably in cases of either elected or representative posts. The most graphic example has been the case of the appointment of the ACP Secretary-

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<sup>20</sup> See Marjorie Lister, *The European Community and the Developing World* (Aldershot, U.K.: Avebury, 1988); John Ravenhill, *Collective Clientelism: The Lomé Conventions and North-South Relations* (New York: Columbia University Press, 1985); Carol Cosgrove-Twitchett, *Europe and Africa: From Association to Partnership* (Farnborough, U.K.: Saxon House, 1978).

General. The most difficult periods in the history of the ACP Group as a coalition have been those in which the Group sought to elect its Secretaries-General. The choice of a successor, at the end of Lomé II in 1985, was particularly difficult.<sup>21</sup> The choice was between candidates from Trinidad & Tobago in the Caribbean and Kenya in East Africa. It resulted in a struggle which left severe and sustained rifts between the various regions. The contest for the post led to the first exercise of the vote, within the ACP Group, on any issue. A similar set of developments occurred, at the time of the subsequent election at the end of Lomé III in 1990. Then, the incumbent from Trinidad and Tobago (Caribbean) was challenged for the post by a candidate from Ethiopia (East Africa).

In both cases, the proposing state obtained the endorsement of its regional grouping for its candidate and thus transformed the contest into an intractable test of regional strength. Compounding the situation on both occasions was the fact that East Africa is a sub-grouping within the wider African group. The division between East Africa and the Caribbean rapidly polarised into an Africa vs Caribbean divide. What the examples underline is how easily a perceived strength of the ACP - the breaking down of the overall group into more manageable groupings - can complicate, rather than assist, the task of forging an internal coalition.

Difficulties in forging internal ACP coalitions

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<sup>21</sup> See Lister, *The European Community and the Developing World*, op. cit., p.177 for an early example of the implications of the first contest for succession as Secretary-General.

also impact on the area of consensus for they can lead to another divisive phenomenon: the creation of cross-party coalitions on issue areas. The failure of the ACP to agree internally has periodically resulted in members of the Group seeking a consensus, in their own interests, with the EU. One example of such a development occurred within the important Stabex scheme. It is the most vital feature of the Lomé Convention for many ACP states since it represents their largest single benefit from the Convention.<sup>22</sup>

It has been a constant ACP complaint in each Convention that the resources provided for the Stabex scheme are not sufficient to meet the requirements of the claimants. There is, thus, a regular annual shortfall in Stabex resources with a consequential failure to meet claims in full. The failure generates ACP dissatisfaction which is augmented each year by the preceding year's gap between claims and receipts.

The gap was particularly large by the end of 1989 when the entire allocation under Lomé III had already been used up. Indeed, the amount granted for Stabex aid, up to that time, had surpassed the allocation of 925 million European Currency Units (ECUs) under Lomé

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<sup>22</sup> One indication of the scale, and importance, of Stabex transfers is the fact that the total allocation to all of the ACP under the first three Lomé Conventions was 21,600 million ECU. However, net Stabex transfers to the 51 eligible ACP states (out of 65) in the ACP during the period 1975-88, i.e. excluding 1989 under Lomé III, were 2,080 million or nearly 10% of all funding. This was an amount net of the sums replenished or repaid. Of the net amount transferred, over 78% (more than 1622 million ECU) was received by just 16 ACP states. See Annex 2 of "The Export Earnings Stabilization System (Stabex), *Europe Information*, January 1990.

III by over 250 million ECUs.<sup>23</sup> The amount approved up to the end of 1989 did not include or cover the transfer requests for the Stabex year 1989. The Commission was forced to search for some means to cover the shortfall. The traditional mechanisms had been to use accumulated interest from undistributed EDF allocations or to reallocate unutilised funds from earlier Conventions. Those mechanisms were unlikely to prove adequate that year. The Commission, therefore, proposed that Stabex could benefit from the unutilised portion of funds allocated to the special financing system for mineral products (Sysmin) in Lomé II.<sup>24</sup>

The proposal provoked an immediate and deep schism within the ACP. ACP mineral producers were particularly upset. Sysmin was perceived to be a notoriously difficult scheme from which to benefit, given its extensive evaluation and slow allocation processes. There were several states which still had applications under consideration for benefits from the Lomé II provisions. Those states were now faced by the prospect of the funds being allocated elsewhere while their applications were still pending.

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<sup>23</sup> "From Lomé III to Lomé IV: Review of Aid from the Lomé Conventions at the end of 1989", *Europe Information*, p. 17. The amount approved for Stabex aid had already totalled 1192 million ECUs while only 925 million had been allocated for all five years of the Convention.

<sup>24</sup> The Commission proposed the use of an additional 70 million ECUs of Stabex transfers, made up of about 54.6 million from the outstanding balance of the Sysmin provision under the 6th EDF and smaller amounts from interest rate subsidies and emergency aid. See "ACP-EEC Convention of Lomé: Annual Report of the ACP-EEC Council of Ministers (1990)" (SN 1879/91), pp. 22-23.



The Commission's response to the complaints was to indicate that almost none of the pending applications had any chance of success. It was a response which provided little reassurance for the mineral producers. In contrast, the Stabex beneficiaries were clearly delighted with the proposal which they saw as a solution to their own problem. They immediately signalled their agreement with it and joined the Commission in pushing for its implementation. The Stabex recipients also had the advantage of being far more numerous than potential Sysmin beneficiaries.<sup>25</sup> The consequence was an issue-based consensus which enjoined a wide majority of the ACP with the EU and worked against internal accord within the ACP Group.<sup>26</sup>

The preceding examples are not intended to be wholly descriptive of the manner in which the ACP Group formulates its negotiating positions. They are intended to serve as indications of the difficulties which the Group faces in doing so. I am also trying to show that features of the Group's organisation, which might appear to be supportive of its internal unity, also serve as serious constraints on that unity. The EU, for its part, also faces problems of internal

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<sup>25</sup> It is difficult to quantify, with any certainty, the number of potential Sysmin beneficiaries as each application for benefit was considered as an isolated case. However, the limits on numbers were clear: oil was not covered under the scheme and the funds under consideration were those for which there were existing applications. Those applications probably numbered 10 while the stabex recipients exceeded 50.

<sup>26</sup> I am grateful to Dr. Coulibaly, the Expert on Sysmin in the ACP Secretariat, for the confirmation of details of this episode.

consensus and coalition in forging its own negotiating positions, as would be expected of a grouping of more than a dozen states. However, there is a fundamental difference between the ACP and the EU in Lomé negotiations: the ACP are principally "demandeurs" or claimants in the relationship while the EU fills the role of donor.<sup>27</sup>

Two distinctive features characterise the different perceptions which the ACP and the EU hold of the Lomé negotiations. The two Groups have widely varying objectives. I have already touched upon the first as arising from Ravenhill's depiction of the ACP states as "demandeurs". The ACP Group seeks to gain from the Conventions through the acquisition of incremental benefits or the consolidation of existing ones. The EU's position is either defensive of the *status quo* or reactive to ACP demands. Very rarely does the EU seek a specific gain of its own.

Additionally, there is a difference in negotiating flexibility and, thus, in the scope for trade-offs in bargaining. The ACP, as the Group in quest of benefits, always has to determine whether or not it can afford to maintain an unwavering position on any single issue. The EU has a more limited scope for flexibility in negotiations. Its positions have been formed mainly through internal bargaining and it is extremely difficult to go back on such internal

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<sup>27</sup> This point is made by John Ravenhill. See Ravenhill, "Negotiating the Lomé Convention: A Little Is Preferable to Nothing", pp.219-220 in I. William Zartman ed., *Positive Sum: Improving North-South Negotiations* (New Brunswick, New Jersey: Transaction Books, 1987).

consensus. Moreover, the issues at stake for the EU do not present much opportunity for gain and, consequently, for amendment in bargaining. The EU sees the Lomé negotiations as periodic exercises intended to consolidate an existing set of arrangements.<sup>28</sup> It thus resists firmly ACP attempts to extend EU obligations through major changes.

The second difference in perception is based on political expectations. The Joint Council of Ministers (COM) represents the highest decision-making forum within the ACP-EU relationship. The Joint COM meets once annually although, during negotiations, it meets more often. Its scheduling does not allow for intensive negotiations during its meetings. Consequently, the detailed negotiations, and the normal management of the Convention during implementation, are delegated to the Committee of Ambassadors (COA). Given the status of the COM, there is a tendency, on the part of the ACP Group, to refer thorny matters during negotiations and implementation to the Ministers, both to its own COM and the Joint COM.

The ACP negotiators in the COA view the COM as a valid decision-making body which can override blockages at lower levels. They thus tend to defer consideration on difficult or persistent issues and pass them on to the Ministers. Their hope is that their political superiors can succeed with their peers where they have failed at the lower level. The Community, in turn, sees the COM as a genuinely

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<sup>28</sup> Ibid. Ravenhill offers an analysis of the negotiating processes for Lomé II and III.

political body in which views are exchanged and decisions are ratified. It is not a forum for the detailed debate or "horse-trading" which typify the COA or negotiating groups. The ACP states thus find themselves without a valid political forum in their dealings with the EU as the recourse to the political bodies does not result in substantive discussions.

A complicating factor derives from the fact that the EU Ministers can and do meet regularly on EU matters. Indeed, contiguity and Community routine allow ready recourse to consultations on any issue. The ACP Ministers, in contrast, only meet twice per year, once in preparation for the Joint COM and, secondly, for an administrative session. ACP consultations on negotiable Lomé matters only take place at the annual COM which precedes the Joint COM. Accordingly, agreement on common positions among the ACP Ministers is often difficult to achieve during the limited periods available for such Councils. Internal ACP and joint ACP-EU consensus often prove elusive in problematic situations. One side has too little time or opportunity to consider the issues in depth while the other side, though blessed with greater opportunity, is unwilling to use the COM as a negotiating body.

To a lesser extent, a similar situation has developed with the ACP-EU Joint Assembly where the ACP representatives only meet on the two annual occasions when they gather for the Joint Assembly. In contrast, the EU Parliamentarians in the Joint Assembly are regularly in contact as members of the standing European Parliament. ACP Parliamentarians are often unfamiliar with the details of the Convention for,

understandably, Lomé matters are not a priority item on the agendas of national ACP Parliaments. This latter problem was reduced to some extent by the fact that the Conventions did allow for an ACP "representative" to attend on behalf of each state. Many states designated their Ambassadors as their representatives, thus meeting the twin needs for familiarity with the topic and saving on the cost of attendance.

More recently, the EU has argued that progress towards political liberalisation demanded that the ACP states be represented by *bona fide* parliamentarians. The conclusions of the Mid-Term Review upheld the EU position. They state that an ACP state can only be represented either by a Parliamentarian or a nominee designated by the relevant ACP Parliament.<sup>29</sup> Only in the absence of a national Parliament can another representative be chosen and, then, only with the prior approval of the Joint Assembly.

The relevance of the Joint Assembly stems from the growing importance which it is assuming in the implementation of the Lomé Convention. The enhanced powers of the European Parliament (EP) in the functioning of the EU has resulted in provisions which give the Parliament powers of ratification and, thus, a greater voice in the determination of EU policy.<sup>30</sup>

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<sup>29</sup> Article 32.1, Lomé IV Convention as revised by the agreement signed in Mauritius on 4 November, 1995, *the Courier* No. 155, January-February 1995.

<sup>30</sup> See Juliet Lodge, "EC Policymaking: institutional dynamics", pp. 26-33 in Lodge (ed.), *The European Community and the Challenge of the Future*, 2nd Edition (London: Pinter, 1993).

The Parliament and its representatives in the Joint Assembly have been gradually, but increasingly, able to affect EU policy under Lomé. This ability was markedly demonstrated by the decision to impose sanctions on Haiti after the military overthrow of the legally-elected Aristide Government. The Commission based its decision to impose sanctions on a resolution of the EP.<sup>31</sup>

In a real sense, it is the MEPs within the Assembly, not the Joint Assembly itself, who have been gaining influence in Lomé matters. This development stems from their dual role as members of the Assembly and, more importantly, as MEPs. It has been under their stimulus that the Assembly has devoted greater attention to the conduct and policies of ACP states.<sup>32</sup> One implication of this focus is that the Commission has begun to take more account of the recommendations

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<sup>31</sup> The resolution was adopted on 1 October, 1991. It is important to note that it was a resolution of the European Parliament, not of the Joint Assembly. This fact helps me to draw an important distinction. I had earlier discussed the relations between the Joint Assembly and the Community (and Commission) and the ACP (see Sections **2.2.3**). While the Community rejects the claims of the Assembly to authority over it, the same is certainly not true of the Parliament. There is a much healthier respect for its authority, given its powers to affect the budget and Commission appointments.

<sup>32</sup> The Joint Assembly has shown a gradual but marked increase in the number of resolutions submitted and approved on the internal situations in ACP states. In January, 1989, there was none at the Bridgetown, Barbados Meeting. There were two (2) at the Luxembourg Meeting in September, 1990 but there were eight (8) approved at the Luxembourg Meeting in September, 1992. See *Dossier: The ACP-EEC Assembly; Its Beginnings and Growth, how it works and what it has achieved 1964-1992* (Group EPP (CD), Luxembourg, 1993).

and resolutions of the Assembly. The Joint Assembly has thus seen a heightened interest and greater involvement of the EU representatives in areas which impact directly on the states of the ACP Parliamentarians. The latter, on the contrary, remain constrained in their ability to respond by their inability to hold regular consultations and their lack of familiarity with the substantive issues.

Technical Support: An examination of the comparative weight of the technical support, the ACP Secretariat and the Commission, helps to illustrate the huge disparity which exists between the two groups. The ACP Secretariat suffers from very limited numbers: in 1989, it had a total of eighty (80) members of staff, a total which included both experts and support staff. Indeed, only fifteen (15) of that number were experts. Such a low number of experts does not allow for a comprehensive coverage of the various issues which are included in the Convention or for the provision of the requisite technical skills which are demanded by implementation.

The Commission, in its Directorate-General for Development (DG VIII), fielded more than 200 experts in 1985.<sup>33</sup> DG VIII is divided into six Directorates with sub-divisions into "desks" covering individual countries or small groups of countries.<sup>34</sup> It also has

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<sup>33</sup> Ravenhill, "Negotiating the Lomé Convention...", op. cit., p.222.

<sup>34</sup> See John Chinwi Mgbere, *Cooperation between the European Community and African, Caribbean and Pacific Countries (1957-1990): a study in group diplomacy* (unpublished thesis presented for the award of the Ph.D degree, University of London, 1994), pp.205-6.

sections which are responsible for the thematic areas of the Convention such as Stabex and evaluation. Additionally, the Commission has offices in most of the ACP states. It is clear that the Commission is able to devote far greater expertise than the ACP in almost every area of the Convention.

The ACP Secretariat faces other severe constraints.<sup>35</sup> The first is in the nature of its leadership. The Secretary-General is elected to his post for a term of office which coincides with the duration of the Convention. In the case of Lomé IV, it was for the first half of the Convention i.e., five years. The electoral process for the post has become very intensive, as demonstrated by the succession contests after Lomé II and III. The protracted struggle, which it provokes, has led to the incumbents devoting a significant proportion of their time to cultivating future support for possible re-election. The Secretaries-General, therefore, have to be conscious of the repercussions of their actions lest they adversely affect potential allies. The image is thus of a Secretary-General with a dual focus: one eye on the effective functioning of his office; the other on cultivating possible support.

The role of the ACP Secretariat is an additional concern for it has been deliberately designed with a low profile. It enjoys a clearly subordinate position to the ACP diplomatic representatives. The Secretary-General and his Secretariat do not enjoy powers to initiate policy as does the Commission. They cannot

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<sup>35</sup> Lister, *The European Community...*, op. cit., pp.174-177 outlines some of the limitations which face the ACP Secretariat.



propose or recommend policy options for the ACP Group. He and the experts can only respond to directions from the COA. The Secretariat is thereby confined to responses on specific enquiries, even on sectoral issues where it presumably enjoys a competitive advantage in technical knowledge.

A further constraint on the ACP Secretariat lies in the nature of its financing. Each ACP state pays an assessed contribution, on a proportional basis, as its share of the Secretariat budget. The salaries of the experts and their direct support (secretaries, consultants, etc.) are met from the European Development Fund (EDF).<sup>36</sup> Given the low proportion of experts on the ACP staff, a significant proportion of the budgetary burden thus falls on the ACP states. It is a burden which has placed the ACP Group under a continuous difficulty. Individual states, when faced with domestic financial problems, have tended to cut back on contributions to international organisations as one of their first options. The ACP has suffered accordingly in its budgetary contributions.

Compounding the problem is the fact that the functioning of the ACP Group, which is not an organ of the Lomé Convention, bears no direct relation to operation of the Lomé Convention. Convention benefits, for states which are already members of the

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<sup>36</sup> The Secretary-General is not classified as an expert for the purposes of EDF payment while the treatment of the Deputy Secretary-General, a post newly reinstated in 1992, is still a matter of debate. In the latter case, the ACP designates the post as expert while the EU terms it political, like that of Secretary-General, and thus not qualifying for EDF funding.

Convention, are in no way affected by their standing in the ACP Group. In sum, a state which is in default of its financial contribution to the ACP Group faces no sanction within the Convention. It only faces a reluctantly imposed sanction of restricted participation within the ACP Group itself. The consequence has been that the ACP endures a perennial problem of delinquent states and consequential budgetary shortfalls. It is a fact which has not served to make the Secretariat a more financially secure or effective body.

For its part, the Commission suffers from none of the above problems. Its sources of financing are assured through the regular budget of the EU. Its central involvement in the negotiation and implementation of the Convention has been outlined earlier. In relative terms, the Commission is disproportionately better endowed with technical expertise than the ACP Secretariat. The political head of DG VIII is the Commissioner for Development but the functional head of Commission Services, in DG VIII is the Director-General. While there might be, and often have been, political trade-offs in choosing the officials for those posts, there is an assured continuity. It is provided by the Commission Services in the form of the roster of officials who guide the daily implementation of the Convention.

The role of the Commission is also much better defined than that of the ACP Secretariat. It can propose courses of action in the relationship with the ACP and has often used that capacity to influence possible policy options. The starting-point itself of

conditionality, as shown in Chapter 2,<sup>37</sup> lay in the initiative of Commissioner Pisani. Another example of such an attempt to influence policy was the unsuccessful proposal to formulate a debt-forgiveness scheme for ACP states. The scheme was proposed by the Commissioner for Development, Manuel Marín, during the negotiations for Lomé IV in 1990.

More importantly, DG VIII is situated within a European Commission which has acquired greater internal cohesion through the breadth of its activities. They encompass coordination of both domestic and international economic matters. In contrast, the sole concern of the ACP Secretariat has been the management of Lomé. Its involvement in that management has, nonetheless, only been partial, contested as it is by the overarching control of the Commission.<sup>38</sup> This disparity in experience is only magnified when combined with the other ACP deficiencies.

Continuity: The third aspect, which I examine, is continuity in organisation and negotiating capacity. In the case of the ACP, I will focus on continuity in two linked areas: continuity of representation and continuity of attention. The implementation of the Lomé Convention has been transformed into a continuous series of negotiations: between the ACP and the EU as

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<sup>37</sup> See Section 2.1.1.

<sup>38</sup> See Section 2.6 which highlights the conclusion that the Community does exercise a wide operational control. It is a point which is developed more extensively later, both in this Chapter and in Chapter 5 on **Operational Capacity**. See Sections 3.2.2 and 5.5.2.

two collective groups; between individual ACP states and the Commission; and within the ACP. All of these negotiations are crowned by the periodic re-negotiation of the Convention itself.

The ACP, as a Group, meets regularly, often weekly or twice weekly, at the level of the Committee of Ambassadors. This routine is usually only varied during the vacation periods in August and December. Additionally, the various sub-Committees dedicated to the specific issue-areas of the Convention e.g., Trade, Agricultural Commodities, Stabex and Development Finance, also hold regularly scheduled meetings. The consequence is a continuous process of consultations and meetings which attract the major attention of ACP representatives in Brussels. The sheer weight, complexity and persistence of the issues demand that the representatives devote both time and constant attention to the mastery of their brief. Moreover, the process of meetings makes the deliberations in Brussels the key element in the management of the Convention. It thus places a great emphasis on the contribution of the representatives in Brussels.

Continuity of representation, under such circumstances, is of the greatest import if the complex matters are to be properly addressed and effectively handled in negotiation. Such continuity is based on consistency of representation through a regular rotation of representatives. It also depends on the need, through that rotation, to ensure that familiarisation with, and mastery of, the various issues is achieved. The process of rotation would not impinge greatly on the negotiations if adequate

continuity was provided by the ACP Secretariat. However, as I have indicated earlier,<sup>39</sup> the Secretariat suffers from severe deficiencies in both technical and material resources and is thus unable to provide the required support.

There is the additional complication arising from the varied quality of representation available to the ACP states in Brussels. The representation in Brussels can vary between a technical choice from a subject Ministry e.g., Trade,<sup>40</sup> a professional choice from the Ministry of Foreign Affairs or, perhaps, a career public servant or ex-politician. Given the crucial role which such representatives play in the negotiating process in Brussels in both bargaining and technical matters, they can suffer from two major limitations. First, the individual contributions can be widely disparate, particularly where the representative lacks either technical or negotiating skills or both. Secondly, familiarity with the specific issues of Lomé demands an investment in time which, once acquired by the individual, can often be lost through untimely rotation. A change of subject Ministry often results in the need to acquaint a new set of home-based officials with the issues.

The second aspect of continuity, that of attention, is best measured by the Ministerial interest in Lomé. There are two dimensions to the problem. The first stems from the jurisdictional void

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<sup>39</sup> See the preceding sub-section on Technical Support.

<sup>40</sup> By subject Ministry, I mean the national Ministry which has been assigned responsibility for dealing with Lomé matters.

in ACP states into which responsibility for Lomé often falls. The relevant subject Ministries include Trade, Agriculture and Finance but the overall control of an overseas Mission is traditionally that of Foreign Affairs. The Brussels Mission is, thus, often a "step-child" of several Ministries, with a corresponding lack of priority attention from most. It is this lack of a recognisable central control that contributes to an attention span and a break in continuity at the policy-making level.

The second dimension of the continuity of attention is more readily measured by the Ministerial attendance at meetings of the ACP-EU Council of Ministers. Earlier, I had indicated that the COM served as the highest political forum within the Convention and that it had a significant value for the ACP. In light of this fact, it is remarkable how few ACP Ministers actually do attend COM meetings. On average, it would be considered an exceptionally good attendance at a COM where half of the ACP delegations were headed by Ministers.

More telling is the nature of Ministerial representation when they do attend. At one COM during the final negotiations for Lomé IV, the Caribbean had the following array: Foreign Affairs (Jamaica and Trinidad and Tobago); Trade (Barbados and Grenada); Finance (Guyana); and Industry (Suriname).<sup>41</sup> The other states were not represented by Ministers. Only half of the Caribbean states had any Ministerial representation and where they did, the various

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<sup>41</sup> Attendance at the ACP-EU COM in Luxembourg, 27-29 October, 1989 as contained in the List of Attendance of the Meeting.

responsibilities covered a wide spectrum. More importantly, there is no regional forum which would allow for regular consultation among the Ministries which were represented. There is thus an obvious problem, even within a single region of the ACP, of providing coordinated coverage of Lomé.

On the EU's side, there is a similar difficulty with continuity of representation: all diplomatic missions are subject to regular rotation and to the transfer of experienced representatives. However, this problem is significantly reduced, if not eliminated, by the fact that the Commission is the EU body responsible for the routine administration of the Convention. Unlike the ACP Secretariat, the Commission is reasonably well equipped, in terms of technical and material resources, to meet the task. The Commission is also formally endowed with the authority to carry out its task. It is the Commission, therefore, which plays the central role, on the EU's side, in this aspect of bargaining capacity. It is to the Commission that one has to look to determine whether continuity of representation and of attention is provided. It is indeed provided, for the one constant in the Lomé relationship has been the technical services of the Commission. They are not hostage to the vagaries of jurisdictional disputes among Ministers. They are not subject to the rotation process and they are adequately equipped to be the managers of the daily implementation of the Convention.

The EU also suffers from a low level of Ministerial attendance at COM meetings but, unlike the ACP, it has a less deleterious effect. First, the Commission and the Secretariat of the EU Council of

Ministers serve as the institutional memory for the Ministers and national delegations. There is no comparable body on the ACP's side. Secondly, the EU has a lower level of dependence on its political representatives for the determination and approval of negotiating positions. Their continued presence and attendance to issues are thus much less of a vital factor in the effective functioning of the EU in its negotiations with the ACP. Finally, there is an obvious reality: constant consultation and coordination of positions are much easier and more regular for the geographically contiguous EU than they are for the widely separated ACP states.

### **3.2.2 Relative Weight in the Relationship**

A second area of importance in the bargaining process is the relative weight of the sides in the process as determined by the experience over the periods of the Conventions. I examine the relationship to determine which party, if any, has exerted the greater influence by looking at four areas: the control of the agenda; the allocation of resources; the rules of the relationship; and internal cohesion.

Control of the Agenda: In spite of the negotiated nature of the Lomé Conventions, each Convention has had a priority emphasis which has been determined by the EU. In Lomé I, the emphasis was on agriculture and rural development while, in Lomé II, it was on energy and food production. The priorities in Lomé IV were rural development, food security, rational management of natural resources and



agricultural production in ACP states.<sup>42</sup> In each case, the emphasis was decided by the EU, based on its own appreciation of the priorities under the Convention. The decision to introduce conditionality, in the middle of an existing Convention, is a graphic example of how the EU sets the agenda for the relationship.

The Community's control is well illustrated by a comparison with the attempts of the ACP to impose its own priorities. The issue of South Africa is, probably, the longest-running manifestation of these priorities. ACP attempts to debate apartheid in South Africa<sup>43</sup> and to establish a common policy for the Lomé parties on the issue date back to the implementation of the first Convention. The ACP efforts continued up to the negotiation of Lomé IV but were not successful. The EU argued that the Convention covered trade and economic matters. The issue of South Africa, as a political matter, did not fall within the ambit of the Convention. It also stressed that relations with South Africa were a bilateral concern of individual member states and not subject to a collective Community approach.

Two separate themes, during the negotiations of Lomé IV, help illustrate the frustrated attempts of the ACP to influence the priorities of the Convention. Both were perceived by the ACP as being of the utmost importance to their development. They were debt and the processing, marketing, distribution and

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<sup>42</sup> Article 6, Fourth ACP-EEC Convention of Lomé.

<sup>43</sup> Lister, *The European Community...*, op. cit., pp.199-201 for a treatment of the ACP attempts to have the matter of relations with South Africa discussed within Lomé.

transportation (PMDT) of commodities. By the late 1980s and the renegotiation of Lomé IV, debt had become an intolerable burden for many ACP states, a fact which was recognised by many in the Community. Indeed, the strongest advocate of the inclusion of some form of debt relief for ACP states was Development Commissioner Marín. However, ACP efforts to obtain some form of debt relief within the Convention were rejected by the Community. The Community cited, as its grounds, that most ACP debt to Community member states was bilateral in nature and, therefore, not amenable to treatment within a multilateral Convention. It was contended that only 1% of ACP debt to European states fell within the ambit of the Convention. The Community was only prepared to countenance two related measures. Future Stabex and SYSMIN transfers would no longer be replenishable i.e., refundable and structural adjustment resources would be allocated as grants.

The question of PMDT was seen by most in the ACP as one possible solution to the problems of limited industrial development and the poor application of the industrial provisions of the Convention.<sup>44</sup> It also responded to a long-held desire of the major ACP commodity producers to overcome their continued relegation to being mere raw material exporters. While the EU was willing to express a general approval of efforts to improve PMDT, it was unwilling to approve specific targets, such as 25% of production by the year 2000. The EU was also unwilling to be bound to explicit measures of support for PMDT within the

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<sup>44</sup> The record of industrial cooperation is discussed in Section **5.3.1** below.

Convention. The Community's concern was that the measures might be seen or used by the ACP as a commitment by the EU to absorb the future exports of such processed commodities. Despite the apparent importance of the issues to the ACP, its efforts in both cases - debt and PMDT - failed notably to influence the agenda.

Having noted the lack of success of the ACP to insert priority items on the Lomé agenda, I should indicate that the record was not a list of abject failures. There were a few ACP efforts which did succeed. I have examined these issues - social and cultural cooperation; human rights; environmental concerns and decentralised cooperation -in the previous Chapter.<sup>45</sup> However, as indicated earlier, they each succeeded in a manner which was not expected by the ACP and which did not always redound to the benefit of the Group.

Allocation of Resources: The manner in which the level of EDF funding is determined at the end of each negotiation remains the method fashioned in Lomé I.<sup>46</sup> It is decided after internal debate and trade-offs within the Community. The equally important issue of how the funds are allocated between the various sections of the Convention is also a matter for the EU alone. Thus, the common ACP criticism that STABEX funding is inadequate to meet the annual shortfalls of the ACP claimants usually presents the ACP with a

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<sup>45</sup> See Section **2.5** above.

<sup>46</sup> See Ravenhill, *Collective Clientelism...*, op. cit., passim and Cosgrove-Twitchett, *Europe and Africa...*, op. cit., passim.

"*fait accompli*". The determination of an acceptable level of Stabex funding has never been a matter for mutual discussion, much less mutual accord. There is, thus, a perennial problem of a funding gap between ACP claims and the annual allocation within the Convention. While the persistence of the problem does result in a continued frustration for the ACP, it also highlights the EU's strong control over the allocation of resources.

In the more general areas of EDF project funding - project approval, criteria for allocation, management and evaluation - the final decision lies with the EDF Committee. The Committee is an internal EU body. The control and determination of the suitability of EDF funding are thus within the EU's sole purview. It is an advantage which is magnified by the fact that the procedures of the Committee are rather opaque and regarded by the EU as internal matters. When combined with the determination of EDF resources, the funding arrangements result in a predominant control by the EU over the allocation of resources.

Rules of the Relationship: The question of whose interpretation or point of view prevails in the application of provisions of the Convention is an important aspect of the relationship. This was a contentious issue from the earliest days of Lomé, particularly in the areas of Community trade policy which might impact on the ACP. The solution was to create a consultation mechanism to allow the ACP to present its views on the particular policy. Over time, the ACP has come to question the utility of the consultation process for two principal reasons. The

first is that the consultation process has evolved into something remarkably similar to notification, whereby the ACP is merely informed of a future change in EU policy. One such example was the extension of the generalised system of preferences (GSP) to non-ACP countries. A case in point was GSP extension to coffee exports from some Central and South American countries involved in the fight against drug-trafficking.

The second reason for ACP dissatisfaction with consultation was that the mechanism often seemed a pointless option to the Group. Even where the process was followed, the EU claimed that the specific policy was part of a wider trade relationship and part of its international obligations. Its hands were thus tied. The examples abound: the erosion of ACP privileges as part of GATT negotiations or the more recent liberalisation of the sugar and banana markets as part of the negotiations for the World Trade Organisation (WTO). The effect, in ACP eyes, is that the EU is able to fashion its policy without reference to its ACP commitments. It is then up to the Convention to adapt to the new reality. In other words, the EU interprets consultation as a process of informing the ACP of its future plans. There is no parallel obligation to take account of ACP concerns or reaction.

More important is the question of who interprets the operational provisions of the Convention in cases of confusion or dispute. It is the Commission, as the body responsible for day-to-day implementation of the Convention, which assumes the responsibility for interpretation. Even in cases where there might not be an apparent lack of clarity, the Commission has determined the operational meaning of a provision and

given effect to that interpretation during implementation. Most of the issues cited in the previous Chapter help to substantiate how the Community usually prevails in the application of the rules of the relationship.<sup>47</sup>

As I have elaborated on those examples in some detail, I will merely use one of them as illustration in this case. The use of Article 5 of Lomé IV is one example of the Community, through the Commission, exercising control over the rules of the relationship. The first application of the Article was made very shortly after the Convention was ratified. The Community, on the basis of a European Parliament resolution, used Article 5 to suspend Haiti from the benefits of the Convention,<sup>48</sup> following the military coup against President Aristide. There was no prior consultation or agreement with the ACP.

The EU's course of action might well have been fully justified and laudable but the interpretation of the scope of Article 5 was solely that of the EU. The ACP reaction was, in the main, uncertainty and hesitation. It allowed the EU to act in total disregard of an unclear ACP position and, thus, to establish a wide-ranging precedent. The ACP, at the insistence of Sudan which feared a similar judgement

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<sup>47</sup> In addition to the example of Haiti which follows, the issues relating to the ACP's social initiatives, covered in Section 2.5, all demonstrate the Commission's control of the application of the rules of the relationship.

<sup>48</sup> The Convention was ratified on 1st September, 1991; the European Parliament passed its resolution on Haiti on 11th October, 1991 and the suspension of Haiti was announced during the same month of October.

to that of Haiti, did set up a working group. Its mandate was to examine the interpretation of Article 5 and to engage in further discussions with the EU.<sup>49</sup> The deliberations were drawn-out but had no effect on the decision already taken or on the precedent established.

Internal Cohesion: The final aspect of the relative weight of the two parties in the relationship relates to the cohesiveness of each group. It reflects how well they were able to coordinate their responses on particular issues. An important influence on internal cohesion was the public image conveyed. In other words, were internal debates and dissension transmitted publicly, thus signalling to the other side the existence of internal divisions and a potential for exploitation of those divisions?

In this regard, the two sides displayed marked differences in Lomé negotiations. The nature of decision-making, within the EU, has been such as to keep the debates and negotiation internal to the Community. There was no need to enlist the support of the ACP on any issue. Any persuasion which had to be done was that of other EU states. Disputes and divisions, within the EU, were not made public in discussions with the ACP. The image, conveyed by the Community, was one of internal cohesiveness. Secondly, the process of decision-making in the EU on Lomé

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<sup>49</sup> Interview with Ambassador Chasle of Mauritius who was the architect of initial provision in Article 5 and headed the ACP Working Group on Article 5. In the interview, Ambassador Chasle admitted that he had not foreseen the Community's interpretation of the Article. This issue is treated in Section **2.5.2**.

matters allowed the details and potential for dispute to be played out at the lower levels. Recommendations were made by the Commission or the Committee of Permanent Representatives (COREPER) before the final ratification by the COM of the EU.

The case of debt relief for the ACP was an example of such decision-making. Debt relief had the personal support of the Development Commissioner himself and, possibly, that of France. Despite that strong support, the matter did not survive the internal EU debate at the levels of COREPER and the COM. It thus never became an issue at the bilateral, ACP-EU level of negotiation. Even if France, in the Presidency of the EU at the time, felt very strongly on the issue,<sup>50</sup> she had no opportunity to pursue the matter beyond the councils of the EU. The episode confirmed what had always been apparent to the ACP: the homogeneity of EU negotiating positions, whatever the known empathies of one or other member state.

On the ACP's side, the image and the reality were much the opposite. Internal dissention was not only common but it was often brought to the attention of the EU in visible attempts to obtain the support of the Community. I have described the STABEX dispute on funding and how the beneficiaries of the system made common cause with the EU to ensure the success of

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<sup>50</sup> There were persistent reports, at the time of the signing in Lomé in 1990, that France, as President of the EU COM, would make a grand gesture of debt relief on the occasion and that President Mitterand, himself, would be present to make the gesture. In the event, Prime Minister Rocard did attend but no relief was extended as France had obviously failed to persuade her partners to support debt relief.



their interests.<sup>51</sup> It was an indicative case but it might not have been the sole instance of a lack of ACP internal cohesion.

A more intriguing example was that of the choice of duration of the current Lomé IV Convention. The ACP Group had long been divided between the relative merits of the traditional, five-year Convention and those of a Convention of unlimited duration. The differences had again emerged during the preparations for the negotiations for Lomé IV. They remained unresolved even as the negotiations developed. As late as the Council of Ministers meeting in Luxembourg where the matter was finally resolved, the ACP had not reached a definitive position. The question of the duration had not been directly addressed within the ACP, if only to avoid internal division.

The circumstances of the final Sunday at Luxembourg were confused. The ACP had undergone an all-night session deciding on the election of a new Secretary-General. In the wider negotiations, a number of largely organisational features were still to be finalised. The consequent choice of a Convention of ten (10) years' duration emerged from this void as an administrative arrangement. Its paternity could not be readily claimed by any negotiator, other than the Commission Services. In short, it was inserted into the conclusions to ensure completion of the negotiations.<sup>52</sup> The outcome was an example of how an

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<sup>51</sup> See Section **2.1.4** above.

<sup>52</sup> My personal recollection of events as a participant in the negotiations has been confirmed in discussions with colleagues in several ACP Missions and with officials of the ACP Secretariat.

internal ACP division permitted the Commission to provide a solution which would have an important impact on the very existence of the Convention.

My assessment of the relative weight of the two parties demonstrates that the ACP is at a grave disadvantage. The control of the agenda rests firmly in the hands of the EU, whether in terms of the priorities within the Convention or in the subsequent application of the agenda. This assessment holds even in the areas where the ACP has managed to influence the agenda to its own benefit. In such instances, the ACP's influence has been outweighed by the EU's dominance of the rules of the relationship. The latter's control of the rules has resulted in an interpretation or implementation of these areas in a manner which has often run counter to the ACP's intention. Control of financing is a critical element in any relationship and Lomé is a vivid example of that fact. The role of the ACP has been limited to the implementation of projects and programmes. The funding of these programmes and the ultimate authority for them rest with the EU in the form of the EDF Committee. Finally, the ACP's indecision on many issues contrasts starkly with the public unanimity in the EU's negotiating positions. This indecision helps to transmit a sense of ACP vulnerability to the other side.

### **3.2.3 Command of Information**

The third area of the internal factors in bargaining capacity covers the command of the information available to the two parties. In this area, I examine the knowledge of each other's position

i.e., of their "win-set" in Putnam's terminology,<sup>53</sup> and suasion, the relative ability to influence each other's position through contact or persuasion.

Knowledge of Each Other's Position: An important aspect of the bargaining process is the knowledge which the parties have of the negotiating options of their adversaries. Each party to the negotiations has a set of parameters which serve, on the upper echelon, as the maximum acceptable and as the optimal agreement. At the lower limit, they represent the point below which the negotiators cannot go and as the point below which agreement is not possible. The series of options in between those points all fall within the scope for negotiations. Of course, the respective ranges of negotiable options of the various parties do not always coincide. Nor is it readily discernible what the range for any party is likely to be. What is of great import is how accurately any one party can determine the acceptable range of another. Such information will allow the informed party to gauge how far it can push the other side in negotiation. It can also determine what, within its own range of options, will both prove acceptable to the other side and maximise its own gains.

In the context of the Lomé relationship, the knowledge of the other's position is a function of analytical capabilities and of awareness of the other's economic conditions. It can immediately be seen that the Lomé relationship is highly asymmetric.

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<sup>53</sup> The concept of the "win-set" or parameters for bargaining is developed in Putnam, "Diplomacy and Domestic Politics..." op. cit., pp.435-452.

It involves only a minuscule portion of the EU's global economic activity. However, for almost all the ACP states, its impact is comprehensive, affecting all sectors of their economies. It covers trade, agriculture, finance and industrial development. Thus, in the normal conduct of affairs within Lomé, the scope is there for the consideration of anything and everything within the ACP economies. On the contrary, it allows for the consideration of very little in the EU's. At the widest level, therefore, the EU starts with a decided advantage in the command of information from the normal management of the Convention.

This natural advantage was increased by developments within Lomé III and IV. They led to the institution of a policy dialogue as part of the programming exercise for each ACP state benefitting from the Convention.<sup>54</sup> The dialogue covers the developmental priorities of the state and helps decide how the assistance from the EU can contribute to those priorities. Again, as a matter of course, the EU is made aware of the policy options and parameters of all ACP states. There exists no comparable mechanism, for the latter, which allows discussion on the EU development policies. Lomé is, after all, merely one multilateral dimension of Community policy as distinct from the individual, bilateral programmes of the member states.

There is another negative factor facing the ACP. There exists no vehicle, or indeed reason, for the ACP states themselves to acquire greater knowledge of each

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<sup>54</sup> These developments are discussed in Sections **2.1.1** and **2.1.2** above.

other's conditions. Indeed, logic and practical experience suggest that the individual state guards jealously any information on its economic position. The fear is that the knowledge might be used by others, to its detriment, in discussions with donors. The ACP thus has less awareness, than does the EU, of each other's economy and "win-set". The EU's command of knowledge in this sphere is magnified by donor coordination. The Community maintains regular contact with the MFIs which monitor the economic and financial policies of the ACP.

At the technical level, the study of the Secretariats<sup>55</sup> demonstrated that the EU was much better equipped to perceive the problems of economic crisis and to identify the policies needed to meet the problem. Those tasks require certain data-gathering, analytical and technocratic requirements which are beyond the capabilities of the ACP Secretariat and, perhaps, of most ACP state. The Commission is more capable of mobilising both the skills and the human resources needed. The ACP is a collective example of countries with limited abilities to meet the capacity needed for effective management of the developmental demands of adjustment.<sup>56</sup> These limitations are further compounded by the unwillingness of the individual states to subordinate their particular interests to a common, unified group interest.

Suasion: The ACP also has a limited ability to

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<sup>55</sup> See Section 3.2.1 above.

<sup>56</sup> See Thomas Callaghy, "Towards State Capability and Embedded Liberalism...", op. cit., pp. 120-22 for an analysis of the demands which adjustment place on state capability.

affect the formation of opinion and position in the EU. There have been periodic efforts to mobilise public opinion in support of ACP objectives but the results have been mixed at best. The most common manifestation has been to lobby support on the quantum of EDF resources at the end of the negotiations of the Convention. The ACP Group has regularly lobbied the European Parliament on the issue when, as has occurred on each occasion, the Community declaration has fallen short of ACP expectations. Forces in the Parliament, sympathetic to the ACP position, would use the threat of a veto of the entire Convention to browbeat the COM of the Community into increasing the level of funding. However, the threat has usually worn off after time as consensus was achieved between the internal Community bodies.

Similarly, the ACP has failed in its objectives when it sought to mobilise the press on matters central to its perceived interests. Such was the result of its efforts on contentious issues i.e., sugar and rice, which emerged from the enlargement of the Community to include Portugal and Spain. The results have not always been negative for the ACP. It was on the issue of sugar that the ACP achieved its most notable success in lobbying within the Community. The satisfactory conclusion of the negotiations to include sugar in Lomé I depended on an accommodation being made with Community beet producers. It marked a significant convergence of the two competitive interests, ACP cane and EEC beet producers.

The convergence did not last as enlargement forced competition for market shares in one of the new member states, Portugal. The Portuguese market had a

stated demand for some 300,000 tonnes of sugar. Its preferred choice was for cane sugar which was its traditional import and for which the refinery capacity existed. That choice posed two problems. The first was for the Community which did not want to increase its imports of ACP cane sugar under the Sugar Protocol. It was thus unwilling to enter into a commitment to satisfy Portugal's import needs with cane sugar. The Community also did not wish to have the cane sugar exporters benefit at the expense of domestic beet producers.

The second problem was for the producers themselves. With such a large increment at stake, the struggle for the Portuguese market brought the cane and beet producers into clear conflict. Both sets of producers have lobbied furiously for a greater share. The issue arose with the accession of Portugal in 1986. It should have been resolved during the period of transitional measures covering Portugal's accession. It had not been resolved by the end of the Mid-Term Review in mid-1995. It continued to be governed by a special measure which requires the ACP producers to make annual requests to supply the Portuguese market.<sup>57</sup> Each annual set of requests was then treated by the Community as a distinct exercise which is separate from the Sugar Protocol. The Community faced a difficult choice, either increase the Protocol or to enter into a final allocation which might place the beet producers at a disadvantage.

The sugar producers in the ACP did maintain a

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<sup>57</sup> See Annex XXVIII of Lomé IV as revised by the agreement signed in Mauritius, *op. cit.*

commonality of interest with the European cane sugar refiners and European national parliamentarians in constituencies where cane sugar refining was important.<sup>58</sup> This coalition has been important in promoting and defending ACP sugar interests. However, it has been one of their few successes. It has had a diminishing effect as the sugar issue has become caught up in the compromises of the Uruguay Round. The conclusions which led to the creation of the World Trade Organisation (WTO) demand a reduction of EU sugar exports on the world market. It has led to adverse effects on the price offered to domestic producers and ACP exporters. The ability of the ACP/refiner coalition to influence Community sugar policy has been limited by the need to satisfy the global concessions.

The ACP gained much less from the lobbying of the officials and entities directly involved with the implementation of the Lomé Convention. There are examples where an individual state has been able to obtain support from the Commission or EU states on a specific issue. Individual success has not usually been translated to a collective success for the ACP Group as a whole. The individual success was often a demonstration of links between high officials in the capitals of ACP states and comparable figures in the EU or in the Commission.

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<sup>58</sup> The ACP Sugar Sub-committee holds regular meetings with the major sugar refiners e.g., Tate & Lyle to discuss matters of common interest. Periodically, usually annually, meetings are also held by the Sub-committee with British Members of Parliament and trade unionists representing workers in sugar-related areas.



The EU has been much more successful at developing and benefitting from such links than has the ACP. The EU has done so in two ways. The first was a residue of the early, pre-Lomé days of association when the Association of African states and Madagascar (AASM) countries were represented diplomatically in Brussels by EC states. There remained, from that early relationship, a continuing closeness. It existed principally between the Francophone ACP states, which comprised the AASM, and the Community. That closeness consisted of high-level contact and personal acquaintances and had been demonstrated in several ways over the duration of the Conventions. The most dramatic had been their use to override decisions of ACP representatives in Brussels. During the negotiations for Lomé IV, the Gabonese Ambassador, serving as ACP spokesman in the working group on PMDT, was recalled home in the middle of the negotiations. The common belief within the ACP was that France had objected to his firmness on the issue and had complained to his Government.

The second form of suasion used by the EU derived from technical contacts. These had built up between senior ACP officials involved in Lomé matters and representatives of the EU and the Commission. Many ACP states customarily sent high-ranking officials from the capital to lobby and discuss important projects with the EU. Similarly, the programming exercise for each national indicative programme (NIP) allowed for further high-level contact between the Commission and officials in the capitals. It was out of those contacts that the linkages developed. At another level, the Commission Delegates in the ACP capitals worked closely with the designated National

Authorising Officers (NAOs) who were often Ministers or very senior officials. Again, the contacts which arose led to an ease of access for the Delegates to ACP policymakers. This access was often used when the EU needed to persuade the national Government of its point of view.

It was also used to lobby the individual Governments against the collective view of the ACP in Brussels. One example of suasion through high-level contacts was offered by the case of the Caribbean regional programme at the end of Lomé III. The Commission was concerned that it faced criticism over the fact that there had not been an adequate disbursement of funds allocated to the programme. It wished to show a much higher level of utilisation of the funds. Every effort was made, therefore, to find last-minute projects which could be approved and initiated to increase the level of disbursement. In spite the fact that a regional list of programmes had been agreed by the Community and by the Caribbean Governments, two different Prime Ministers were encouraged to submit late projects directly to the Commission.

The two projects were the provision of student housing for the Jamaican campus of the University of the West Indies and the construction of an airport on an island in the Grenadines off St. Vincent. Only the latter project had been proposed by by St. Vincent to the regional forum but it had failed to gain acceptance within the regional mechanism. Nonetheless, they were hastily approved, by the Commission, to

boost the disbursement level.<sup>59</sup> The revealing aspect of the example is the fact that the contact was at the highest level of Government in the two states. It demonstrated the range of suasion exercised in the Lomé relationship.

The importance of such suasion should not be underestimated because it has resulted in an affinity between ACP policy-makers in the capitals and EU political and technical officials. The affinity was not based solely on an appreciation of the issues in Brussels but on two other factors as well. It was based on what national benefits the ACP officials considered likely and on the possibilities, which the EU saw, of influencing decisions. The affinity was also generated by a common perception: Lomé concerns, being technical in nature, were only truly understood by technical agencies i.e., subject Ministries in capitals and the Commission.

In such a perception, the role of the diplomats in Brussels is a necessary inconvenience: they are facilitators, not primary actors, in the detailed operations of the Convention. It is thus relatively simple for informal discussions to take place outside of the bilateral ACP-EU context. It is also easy for information to be shared, and conclusions reached, through these informal contacts. I have touched, earlier, on the type of dialogue which accompanies the FMOs covering Stabex transfers. In this dialogue, there is, most often, a direct contact between Commission officials and policy-makers in ACP

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<sup>59</sup> Discussions with CARICOM officials dealing with the regional programme within the Caribbean Forum.

capitals.<sup>60</sup>

There is a third area in which the EU's superior command of information was unquestionable. It was the EU which had produced the first draft of conditionality proposals and thus set the basis for discussion. In any form of bargaining, it is a critical advantage to have the other side negotiate on one's terms or one's text. The EU succeeded in doing so by providing the terms of reference for negotiation. The ACP could only react to that initiative. It proved extremely difficult for the Group to overcome the EU's advantage. As outlined in the previous Chapter, the ACP could offer little technical or other recourse to the Community's proposals.<sup>61</sup> The conclusions of the Mid-Term Review demonstrate that the outcome was, in the main, a ratification of the initial Community proposals.<sup>62</sup> The ACP did manage to overcome the various linkages, such as that between Stabex transfers and structural adjustment support, which had been proposed. However, the basic premise of multiple conditionality - the myriad forms of cross-conditionality connecting political, social and economic obligations - was maintained intact.

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<sup>60</sup> See Section **2.1.4**.

<sup>61</sup> See Section **2.4.1** and Section **2.4.4**.

<sup>62</sup> The negotiation of multiple conditionality in the Mid-Term Review is covered in Chapter **4**.

### **3.3 IMPLICATIONS FOR CONDITIONALITY NEGOTIATIONS**

The conclusions of the foregoing analysis of the internal factors are not favourable to the ACP and show a preponderant capacity in favour of the EU. The latter has a greater command of information, both in its knowledge of the other side's position and options and in the specifics gained from the operation of the Conventions. All the EU organs - the Commission, the COM and the Parliament - have acquired increased standing and authority since the beginning of Lomé. The increased stature does not necessarily derive from the Convention itself but rather from the deepening of the integration process within the Community. Their coherence and organisational strength have both improved during that time.

On the contrary, the ACP has shown little organisational strengthening during that period. In a number of areas - coalition building, regional groupings and consensus - the ACP has not been able to overcome inherent weaknesses and mutual suspicions. The internal strength lies with the EU: this is readily apparent in the areas of human and technical resources, information and cohesion. The examination of the internal factors supports the view that it has been the EU which has gained more weight from the relationship. It would thus be better able to mobilise that weight during bargaining on conditionality.

The identification of strategy and tactics is a general but important aspect of the bargaining process between the ACP and the Community. An examination of the three substantial memoranda prepared for the

negotiation of Lomé II, III and IV<sup>63</sup> revealed a major deficiency in ACP preparedness. It also provided an instructive guide to the bargaining capacity which the ACP will command.

The deficiency lies in the lack of attention given to negotiation strategy and tactics. Only in one of the three, that for Lomé III,<sup>64</sup> were there a detailed consideration and elaboration of the negotiating options available to the Group. The section covered the negotiating process, the duration and structure of negotiations, procedures, choices and possible negotiating postures of both sides. The corresponding section on strategy in the subsequent memorandum for Lomé IV spanned a grand total of three pages and dealt with the issue in a very cursory manner.<sup>65</sup> The contrast between the two documents helps to substantiate the view that the ACP's organisational structure was woefully lacking in its preparedness for negotiation. It had failed to develop the necessary tactical options for negotiation of the Convention on two of the three occasions.

Where the Group did explore such options in the Lomé III memorandum, the recommendations proved to be

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<sup>63</sup> I have dealt with these three memoranda as they were the ones drawn up by the ACP as a whole. The initial negotiating documents, prepared in advance of Lomé I, were prepared as regional texts representing the views of the three regions.

<sup>64</sup> *Memorandum on The Position of the ACP Group in its Future Relations with the European Economic Communities* (ACP/0023/83 NEG (Rev.4), pp.120-140.

<sup>65</sup> See *Memorandum on ACP Guidelines for the Negotiations for a Fourth ACP/EEC Convention* (ACP/00/012/88 NEG Rev.2), pp.176-178.

most interesting. They highlighted many of the shortcomings which have been raised in my examination above. The recommendations stressed the need for continuity of representation. They urged that a Ministerial spokesman "be ready to display the necessary discipline and sacrifice of time and effort required without which he is unlikely to be able to effectively discharge his undertaking to the ACP."<sup>66</sup> The recommendations also underlined the need to avoid inter-regional friction over the choice of negotiators and areas of interest.

The Memorandum singled out for particular mention the risks involved in achieving and maintaining group consensus. The hope was thus to avoid cross-party alliances which might serve to "relieve a pressing individual national problem or difficulty for the particular state."<sup>67</sup> It recognised the need for suasion, on the part of the ACP, through contact with European public opinion, press and Community Ambassadors and capitals. It also highlighted the limitations of the ACP Secretariat and the need for the ACP to be able to defend its positions on sound technical terms. In addressing those problems, the Memorandum called for a strengthening of the technical expertise of the Secretariat through the provision of officials from ACP states and regional organisations.<sup>68</sup>

The negotiating brief urged that the ACP should "always have clearly in view not only its overall

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<sup>66</sup> *Memorandum on the Position of the ACP Group...*, op. cit., p.126.

<sup>67</sup> Ibid., p.137.

<sup>68</sup> Ibid., p.138.

objectives and principles, but the specific objectives in each negotiating area, with the priorities clearly stated."<sup>69</sup> That was a plea for consistent preparation of the type which had produced the section itself i.e., an elaboration of strategy. It was a message which was to be ignored. The ACP Group, as noted above, failed to do so for the next round of negotiations in Lomé IV. That failure provided ample proof that the ACP remained afflicted by severe organisational constraints. The Group, while fully aware of the limitations with which it was beset, had been unable to overcome them. The implications for bargaining on multiple conditionality are self-evident.

### **3.4 EXTERNAL FACTORS: COUNTERVAILING CAPACITY**

It is clear, from the above, that the ACP Group suffers from a disparity in weight in the factors, internal to Lomé, which affect bargaining. One mechanism for offsetting the advantages of the EU would have been to build up strengths outside the relationship i.e., a *countervailing capacity*. I examine the external factors in four areas: *group presence; external credibility; coordination and domestic manoeuvrability*.

#### **3.4.1 GROUP PRESENCE**

I contend that, in order to mobilise external support, the two sides needed to demonstrate that they had projected their Group's recognition beyond Lomé. My focus here covers the composite areas of external

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<sup>69</sup> Ibid., p.135.



prestige, external projection and association.

External Prestige: A comparison of the external prestige of the two groups reveals that the EU has better managed to build up its prestige. On the other hand, the ACP, in spite of certain inherent advantages which it carried, has lost merit. The EU has exerted a growing presence and heightened prestige through the numbers and the sheer economic size which it represents. It comprises fifteen member states but they contain over 300 million people. As an economic grouping, the EU stands as one of the three global pivots of economic growth, rivalled only by Japan and the United States.

The EU's prestige has been enhanced by the efforts which it has been making at deepening its integration process. They include the forging of a Single Market, the expansion of its membership and the attempts at closer harmonisation of internal policy among its members. The EU has maintained an important presence in international fora, including representing the member states in matters of international trade. A concrete manifestation of the EU's external prestige is the fact that its President and the President of the Commission are *bona fide* members of the Group of Seven, the group of leaders<sup>70</sup> who meet to discuss global economic policy. These several aspects of external presence portray the EU to the world as a large, cohesive and economically strong grouping

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<sup>70</sup> It should be noted that the President of the EU participates in the meetings of the Group of Seven when the country in the post of President is not an automatic member of the Group. The automatic members are France, Germany, Italy and the U.K. The President of the Commission is always present.

forging ever-closer links among its members.<sup>71</sup>

In the case of the ACP, the experience has been much the opposite. The ACP Group started with several factors which militated in favour of a greater external presence. The ACP was in the unique position of being the only formalised Third World grouping. It had the experience of a long, negotiated association with a representative group of developed countries. It had done so at a time when the Third World, as represented by the Group of 77 (G-77), had failed to move the industrialised world towards negotiation on perceived concerns. Further, the association had been based on substantive issues of economics and development, not on the non-binding discussions which characterised international economic fora. The experience, therefore, should have endowed the ACP with unique qualities. It was in a position to serve as a stimulus to, and living laboratory for, the fashioning of G-77 policy for negotiating with the North.

The reality was quite the opposite as the ACP did not manage to build on its inherent strengths. If external prestige is to be measured by international recognition, then the ACP has an extremely low prestige. It suffers the ignominy of not even commanding observer status in fora such as the United Nations (UN) or the General Agreement on Tariffs and Trade (GATT). Nonetheless, sub-sets of the Group -

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<sup>71</sup> I am not attempting here to make a value judgement on the merits of closer EU integration or of a confederal Europe, an issue which is evoking very strong feelings among domestic groups in most member states. I am merely reflecting what I perceive to be the view held by the wider international community.

CARICOM, the West African Economic Community (ECOWAS), the South Pacific Forum (SPF) - all enjoy such standing. This discrepancy was visibly manifested at the GATT High-Level Meeting in Brussels in December, 1991 where the ACP Secretariat had no accreditation. It thus had no means of helping to coordinate positions among its members on topics of critical import to the Group. It had to petition ACP states to include its officials in national delegations so as to establish a presence.<sup>72</sup>

Projection and Association: As a derivative of its external prestige, the EU has acquired an external projection which is high-profile and well recognised. This profile is enhanced by its involvement in resolving issues such as trade disputes, whether with the USA on agriculture in the GATT or with Japan on import barriers. The image created is that of a collective body committed to the defense of the interests of its members. Its external projection has also been increased by the efforts which the EU has made in areas other than the economic. These efforts include the coordination in foreign and defence policy and action in the former Yugoslavia. In the area of association, the EU has also expanded the scope of its interaction. It has done so through the expansion of its membership and the extension of cooperation programmes to several other European states.

The ACP Group has been noticeably less successful in both areas. It has had a relative lack of success in building up its external prestige. The poor record has resulted in the Group being unable to project

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<sup>72</sup> Interviews with ACP officials in Brussels.

itself significantly, outside of the Lomé relationship. The level of recognition which the Group enjoys is particularly low. Within its own member states, the ACP Group and its purpose are largely unknown.<sup>73</sup> Internationally, its external projection is equally low, as was demonstrated earlier by its external representation. The weakness of the ACP's group presence is especially marked in the area of association. Its weakness is apparent in both its internal association and its external relationship to other groups of developing countries.

One indicator of strength of association lies in the growth of internal coordination and cooperation on different issues. In the case of the ACP, the growth would be visible in efforts made at achieving at technical and economic cooperation within the ACP. Such cooperation marks the degree to which the Group has been able to forge a common reality beyond its incarnation in the Lomé relationship. The history of the Group has, indeed, been marked by several attempts at cooperation which led to high-level Declarations, such as those of Suva and Kingston.

The Declarations laid out the objectives of intra-ACP cooperation and programmes designed to achieve those objectives. Despite the laudable intentions, the objectives have not been attained for one main reason. The programmes were too general in nature, covering too wide a range of sectors. No priority was identified among the sectors and

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<sup>73</sup> See Mgbere, *Cooperation between the European Community and African, Caribbean and Pacific Countries...*, op. cit., passim.

projects. The ACP has not been able to initiate any of the projects in those programmes. Thus, by one measure of association, internal cooperation, the ACP has failed in its efforts.

At the wider, external level, there has been a long separation between the ACP and the larger G-77 on a basis of functional specialisation. The ACP focused on the "hard", beneficial issues of economic cooperation while the G-77 was seen as concentrating on the more nebulous, "policy" issues of international economic relations. That distinction led to the ACP deferring, to the G-77, on issues with global implications unless they impinged on the substantive issues of ACP-EU cooperation. The ACP concentrated on its Lomé agenda and left the representation of its members on wider issues to the G-77. The deference to the G-77 had a deleterious effect on the external projection and association of the ACP. The eclipse of the North-South dialogue has led to the lowering of the profile and involvement of the G-77. With the decline of the G-77, the ACP has also lost its principal channel for dealing with issues of international significance. Its external projection has thus been further reduced.

#### **3.4.2 External Credibility**

The credibility of the two groups has also been an important aspect of their efforts to build a countervailing power. This credibility, as it relates to multiple conditionality, rests on their perceived ability to handle financial and technical matters.

Financial & Technical Matters: The EU, as part of

its own programme of integration and harmonisation of policy, has acquired a growing expertise in dealing with financial and technical matters. Thus, the EU, in its own right, carries a significant measure of credibility in such matters. As a major multilateral donor, the Community is involved in the routine contact among donors, whether on an informal basis or in the ambit of the OECD.<sup>74</sup> The EU has also gained a specific knowledge of the economies of the ACP states from its control and management of the Conventions. It is in the last area that the distinction between the credibilities of the two groups is most marked. As a measure of the financial and technical expertise of the EU on ACP countries, it is with the Community that the MFIs consult on issues concerning the ACP.

The ACP, on the contrary, suffers from a total lack of credibility in the financial and technical spheres. The Group's standing may be low in many areas, given its lack of technical and human resources. However, its status is particularly low in the more specialised areas of finance and macroeconomics. The ACP, as a Group or Secretariat, has little external credibility in these areas, as demonstrated by the attitude of the MFIs. The MFIs discuss ACP economies either with the individual state or with the EU as a body which has a collective view of the ACP Group. There is no contact between the MFIs and the ACP Secretariat despite the latter's long

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<sup>74</sup> In my interviews with Commission officials, I was made aware of the direct involvement of the Commission in various policy and research groups in both the OECD and the MFIs in Washington. In the latter case, one such group is the Special Programme for Africa looking at economic reform and political liberalisation.

record of association as a Group.

Moreover, it is in the estimation of its members that the ACP suffers most. As part of the operation of the Conventions, the ACP states should supply reports, to the Secretariat, on their experiences in various aspects of the Convention. Such details have been requested on trade benefits and problems, on project implementation and on regional cooperation. The experience of the ACP Secretariat in obtaining that information has not been good. The states have generally failed to provide the information. They have retained it because they regard it as private. They have also refused because they regard the ACP Secretariat as lacking the necessary authority to lobby their cause effectively.<sup>75</sup>

This reluctance is particularly noticeable in the area of project assistance and finance. It is an area where the conduct of individual programmes is considered to be sensitive and not a matter for the general consumption of the Group. The experience following the ratification of Lomé IV offers an example of the Group's assessment of its collective credibility on financial and technical matters. There were provisions in the Convention relating to investment and structural adjustment. The ACP Secretariat, in appreciation of that fact, created new posts to service the new areas. Nonetheless, the authority to finance the new posts was withheld by the ACP COM because it felt that there was no urgent need for their services. At the time of writing, the posts

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<sup>75</sup> This assessment was gleaned from my discussions with various ACP officials and representatives.

are still not fully filled.<sup>76</sup> It remains doubtful whether the flow of the necessary information from the individual states will be sufficient to justify filling the posts. ACP states have not been willing to circulate statistics on national economies. It is thus unlikely that, in cases of sensitive financial matters, details will be made available to the inexperienced officials of the ACP Secretariat.

The implementation of the structural adjustment provisions in Lomé IV also serves as a useful indicator of ACP credibility. The provisions were included in the Convention to address some of the neglected aspects of adjustment programmes in the ACP states. In spite of the creation of a post to handle adjustment matters, the ACP's effort at implementation has faced a major obstacle in dealing with sensitive areas of the domestic economy. The states have divulged little or nothing of their individual experiences, either under Lomé or with the MFIs, to make the task of the Secretariat feasible.

The introduction of multiple conditionality adds a sociopolitical dimension to the sensitive areas of economic adjustment. Therein lies another important reason why the ACP states consider a likely role for the Secretariat as inconsequential. Until the introduction of conditionality, the implementation of the Conventions has deliberately steered clear of political issues. The ACP Secretariat has not had the opportunity to gain political credibility and has never been involved in the domestic affairs of its

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<sup>76</sup> There is an officer in one of the posts on a temporary basis.



members. Very few states trust either its judgement or its command of skills. To a large extent, this is due to its total lack of experience in intra-ACP cooperation which is one area upon which such trust could have been built.<sup>77</sup>

### **3.4.3 Coordination**

One further area from which the EU has gained external countervailing power is that of donor coordination. The coordination has been pursued within the EU itself and, externally, among groups of donors. The EU has drawn closer to a common, coordinated approach to development at the bilateral and Community levels. The consensus on the introduction of multiple conditionality is one indication of such coordination. The internal consensus has been strengthened by the growing coordination, generally, among international donors.<sup>78</sup> The wider coordination has been evident within the Organisation for Economic Cooperation and Development (OECD) and the MFIs where common approaches are constantly being fashioned and reaffirmed.<sup>79</sup> The coordination among donors has a special significance for the application of conditionality to recipients. It helps to ensure that

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<sup>77</sup> The ACP's failings in intra-ACP cooperation was briefly discussed in the previous section. An example, the project on the ACP roster of experts, is treated in more detail in Section 5.2 below.

<sup>78</sup> See Nelson and Eglinton, *Global Goals, Contentious Means...*, op. cit., pp.83-86 for a description of donor coordination.

<sup>79</sup> See, for example, OECD, "DAC Orientations On Participatory Development And Good Governance", Vol.II, No.2 (OECD Working Papers, 1994).

the latter face a common series of donor criteria.

All that I have noted thus far - the lack of intra-ACP cooperation, low level of information shared and the sensitivity of information - argues in favour of a Community superiority in the area of coordination. However, there are factors which suggest that the ACP might be able to mobilise some countervailing power in this area. As raised earlier, most ACP states have undergone, or are presently undergoing, conditionality programmes. They have thus gained some experience in dealing with such programmes. Such states have a vested interest in ensuring that the conditions imposed by the EU do not present burdens additional to those already being faced. Accordingly, they should be willing to place their pool of knowledge at the disposal of the Group.

Secondly, while donor coordination does allow for a common approach to the treatment of recipients, it can also give rise to conflicts in programme objectives among donors. There are already indications that the Community has enunciated views, in the councils of the MFIs, which deviate from the traditional positions. The EU has insisted that the traditional prescriptions for adjustment and conditionality should be moderated to take account of the particular circumstances of the individual recipient:

"... the studies seem to underline that the insistence of outsiders on the implementation of a variety of reforms did not always contribute to internalize the responsibility for the economic reform programme. The excessive use of conditionality tends to distract governments from working out more long-term, coherent development strategies, adapted to the political economy, administrative capacity and economic potential of their countries..."<sup>80</sup>

The Community had long recognised this distinction, as demonstrated by its SAS proposed in Lomé IV.<sup>81</sup> Its approach had been fashioned to meet the failure of standardised programmes to address adequately the social dimensions of adjustment.

Even as I recognise these potentially positive features of coordination for the ACP, I must also acknowledge that there are offsetting, negative factors. First, the implementation of the SAS in Lomé has demonstrated that the ACP states have been unwilling to contribute or share information on certain areas of the national economy. This is a fact which does not bode well for future cooperation on multiple conditionality. Secondly, the history of Lomé has also shown that the ACP states have shared a long and varied involvement in aid programmes. However, as the underlying rationale of this thesis would indicate, that common knowledge has not proved very useful to the Group in dealing with the Community. There is, therefore, no reason to assume that the Group will be able to mobilise its conditionality

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<sup>80</sup> European Commission, "The Design of Economic Reforms in the Context of Political Liberalisation", p.20. (The emphasis is my own). This potential difference in the EU's approach is developed in Chapter 6.

<sup>81</sup> See Section 2.1.3.

experience more successfully.

The EU's implementation of the SAS programme has already revealed a closer coordination with other donors and the MFIs.<sup>82</sup> There is no reliable indication that the EU will be any more disposed to blaze an individual path in the much more complex arena of multiple conditionality. Finally, the Community, like other donors, has always sought to keep recipients isolated by insisting on a case-by-case treatment of states in matters relating to debt and adjustment. There are thus two factors encouraging a continuing lack of ACP coordination: the internal ACP unwillingness to share information and the Community's strategy to deal with the states on an individual basis.

#### **3.4.4 Manoeuvrability**

This aspect of bargaining capacity draws upon the study by Thomas Callaghy on state capability<sup>83</sup> in which he looks at the role of the state in economic adjustment. Callaghy categorises the prevailing political economy of the industrial countries as a "compromise of embedded liberalism".<sup>84</sup> It is a policy

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<sup>82</sup> In my interview with Deputy Director-General Peter Pooley, he outlined the form in which such donor coordination has already been effectively organised. Individual donors assume responsibility for separate components, matched to their relative strengths and interests, within adjustment programmes.

<sup>83</sup> Thomas Callaghy, "Towards State Capability and Embedded Liberalism in the Third World: Lessons for Adjustment" op. cit.

<sup>84</sup> The term is borrowed from John Gerard Ruggie. See Ruggie, "International Regimes, Transactions and

of commitment to international economic liberalism along with the use of state power to minimise its domestic social consequences. The policy has been succinctly described by James Mayall as "Keynes at home and Smith abroad".<sup>85</sup> Callaghy argues that the policy has not been extended to the developing world. He suggests that there are lessons for the developing world to be gained from embedded liberalism. He contends that successful adjustment requires linking liberalisation and domestic political stability as a form of embedded liberalism.

There is a growing realisation of the importance of the linkage among the donors and the countries undergoing adjustment. The realisation is evidenced by the Community's stress on the adaptability of adjustment programmes<sup>86</sup> and the almost universal commitment of the Third World to economic liberalisation.<sup>87</sup> There remain at least two problems. The first stems from the extent to which this realisation has influenced donor policy. The recognition of the need for the linkage may exist.

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Change: Embedded Liberalism in the Postwar Economic Order", *International Organization*, Vol.36, No.2 (Spring, 1982), pp. 379-415.

<sup>85</sup> Cited in Robert Gilpin, *The Political Economy of International Relations* (Princeton, New Jersey: Princeton University Press, 1987), p.355.

<sup>86</sup> See Section **3.4.3** above for an outline of the Community's position.

<sup>87</sup> In his study, Callaghy cites various examples, including Ghana, Chile, Brazil, Argentina and Zambia. See Callaghy, "Towards State Capability...", op. cit., pp. 122-128. The ACP, for its part, committed itself to market economics and an enhanced role for the private sector in Lomé IV.

However, it is still subordinate to ensuring that developing countries commit themselves, above all, to a pure form of economic liberalism. The second problem arises from the limited capabilities of developing countries to create and manage the compromise of embedded liberalism in the face of conditionalities.<sup>88</sup> It requires them to undergo interlinked economic and political processes at the domestic and international levels simultaneously.

It is the capacity to manage the compromise which I have characterised as "manoeuvrability" i.e., the availability of options for action. In this regard, I look at three areas: the existence of embedded liberalism; domestic capacity; and alternative sources of assistance.

It is necessary to make a general comment before examining the topic in detail. Manoeuvrability applies much less, if at all, to the EU than it does to the ACP. Constraints on manoeuvrability for donors are limited since they are the ones who impose the conditions and, consequently, have little need for options. In the case of Lomé, the history of the Conventions has shown that there is a very small constituency, within the domestic politics of EU states, in favour of the ACP Group and its interests. The value of Lomé for the EU has diminished over time and, accordingly, the Convention has slipped down the agenda of concerns within the Community. The concerns about reliability of commodity supplies and the moral and colonial ties within EU member states which militated in favour of the initial Convention have all

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<sup>88</sup> Ibid., p.120.

diminished. There is, therefore, little possibility of domestic pressure against the EU's treatment of the ACP. If anything, domestic pressure, within the Community, is likely to be in favour of stricter conditions in the disbursement of EU assistance. The EU is facing strong demands for the application of accountability, efficiency and economy in the use of its funds for both internal and external purposes. In such a context, it is only to be expected that the desire will be to subject the allocations to the Lomé Convention to critical consideration and strict conditions.

I have, accordingly, focused on the ACP in my treatment of manoeuvrability. The scope for pursuing a policy of embedded liberalism, within the ACP states, has changed greatly during the existence of the Convention. The Lomé Convention began as an arrangement in which political elements were specifically excluded. As I noted at the very outset, one of the distinctive features of the relationship was the recognition that the Convention was based on a respect for the sovereignty and developmental choices of the ACP states.<sup>89</sup> This delineation was well respected by the EU and remained in effect until the end of Lomé III.

The ACP states were, in theory, free to pursue their chosen types of economic and political logic without constraint from the Lomé Convention. The operation of the Convention thus hardly impinged on their autonomy in the domestic sphere. It is not the objective of this thesis to ascertain whether or not

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<sup>89</sup> See **Introduction**, pp. 17-19.

the ACP states exercised their autonomy successfully. The reality was that their autonomy of action was not much constrained by the obligations of Lomé. By the time of Lomé II, however, the EU had become concerned at the lack of development in many, if not most, of the ACP states. It was particularly interested in pursuing, with the ACP, what was becoming a growing phenomenon of MFI assistance: a policy dialogue to ensure that development assistance was granted in accord with the objectives of domestic economic policy. That quest was the essential thrust of the Pisani Memorandum.<sup>90</sup>

While the ACP had managed to resist EU efforts to introduce policy dialogue during the negotiations for Lomé III, the dialogue had been inserted into the Convention by Lomé IV. It was accompanied by carefully couched caveats. They included the assurance that the dialogue would in no way impinge on the freedom of action of the ACP.<sup>91</sup> However, the recent trends have been in the opposite direction. To a large extent, the changes in Lomé have been reflective of the wider changes in the global environment. With the end of the Cold War and the upsurge of liberalism, recipients of development assistance have been held accountable for their performance on several counts. These include their efficient use of aid funds; their observance of human rights; their commitment to democratic practice; and their adherence to market principles.

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<sup>90</sup> The Pisani Memorandum and its impact have been treated in greater detail in Chapter **2.1.1**.

<sup>91</sup> The progress towards the introduction of policy dialogue is covered in the previous Chapter. See Section **2.1.2**.



Within the Lomé relationship, there have also been changes which impacted negatively on the autonomy of the ACP states. These changes also reduced the ACP's scope for pursuing a policy of embedded liberalism. As detailed earlier, the experiences in Sudan and Burundi had drawn attention to human rights practices of ACP states.<sup>92</sup> They encouraged both the European Parliament and the ACP-EU Joint Assembly to broaden their focus on Lomé. They began to pronounce not only on the implementation of the Convention but also on domestic issues in ACP states. The distinction between the economic content of Lomé and ACP socio-political autonomy had been eroded. The erosion placed a serious constraint on the option of the ACP states to manoeuvre domestically without reflection on the Convention.

It is to be noted that the changes described above took place against the background of intrinsic defects in the domestic capabilities of ACP states. I have already touched on the bureaucratic and technical weaknesses of the ACP<sup>93</sup> but the point cannot be over-emphasised. These weaknesses left the ACP in a position where the Group played an unequal role in the operational side of the Convention. They also meant that the ACP states did not possess a sufficiently strong capability to meet the new accountability in the relationship. They were unable to fashion and pursue the programmes which would be required. The deficiencies in the capabilities of the ACP states were increasingly met by the provision of external

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<sup>92</sup> The human rights issue is covered in Section **2.5.2** above.

<sup>93</sup> See Section **3.2.1** above.

expertise.<sup>94</sup>

The ACP Group was faced by a reduced scope for manoeuvre and by an inherently weak capacity to fashion policy. It also faced the post-Cold War reality of reduced sources of possible aid. At a general level, the potential pool of aid sources had diminished, either through greater donor coordination or reductions in the levels of funding in various countries. The geostrategic concerns which had motivated many aid programmes during the Cold War had also disappeared. The alternatives, which had formerly existed, had been further restricted. Many ACP states had themselves been suffering from economic woes and had been forced to undergo structural adjustment. With the critical scrutiny of their economic management, they had lost most of their traditional flows of development assistance. For many of these countries, the EU, with its ignorance of political factors, had remained a major support. It had remained a source of continued assistance during a period when they had been shunned by other traditional donors.<sup>95</sup>

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<sup>94</sup> The issue of external technical assistance, and its relevance to Lomé, is examined more extensively in Chapter 5. See, for example, Sections 5.2 and 5.5.1.

<sup>95</sup> Two notable cases were Guyana and Ethiopia during the late 1980s. One observer, the former Finance Minister of Guyana, pointed out that only the EEC and the Inter-American Development Bank (IDB) offered continued assistance to his country during this time. In the case of Ethiopia, the Commission not only continued its assistance under Lomé but even served as a "honest broker", on Ethiopia's behalf, with the MFIs.

### 3.5 CONCLUSION

Each aspect of countervailing capacity has been relevant to bargaining on conditionality. The analysis reveals that the EU managed to build up its external prestige through its international projection and associations. The ACP, on the other hand, has slipped from its early prominence of 1975 when it served as a demonstration of the South's potential. It is now a Group with little global presence and little effect on international policy. The ACP is thus unlikely to be able to mobilise effective external support on conditionality, an important issue in international policy. The relative quiescence of the G-77 has deprived the ACP of both its sole vehicle for external projection and a possible source of external support.

Relative to the EU, the ACP suffers from a lack of credibility, both functionally and as a group. In matters of relevance to conditionality, i.e., financial, technical and sociopolitical issues, the ACP Group has had an extremely limited record of experience, with a poor rate of achievement. It is unlikely that ACP states will entrust the sensitive areas, covered by conditionality, to the stewardship of the inexperienced ACP Secretariat. Nor will it provide details on such issues - financial data, economic policy, sociopolitical options - for the collective information of the Group. The track record of the ACP in dealing with technical areas will leave no one confident of its ability to represent them on such matters. The EU is accustomed to dealing with financial and technical matters as part of its daily routine of Community affairs. The ACP, on the contrary, carries no external credibility as a body

experienced in handling such issues. It is to the EU, not the ACP, that the MFIs turn for consultation on the economic situation of the ACP states. The ACP thus lacks credibility in the eyes of both its members and the external community. It also lacks the functional authority to handle such matters.

I have dealt earlier with the area of coordination<sup>96</sup> where I indicated that the EU enjoys an inordinately greater supremacy. However, it is here that the best possibility arises for the ACP to benefit, in a bargaining sense. The areas of adjustment and conditionality are largely uncharted waters for both donors and recipients. The history of practice in adjustment is still emerging. The area of multiple conditionality is both more novel and more complex so relevant experience and reliability of prediction are much more sketchy. The fact is that neither donor nor recipient can draw much comfort from a coordination of approach. Unfortunately, the reality is that neither side, especially the donors, is inclined to accept this constraint.

The manoeuvres of embedded liberalism offer the ACP very limited options to reduce the impositions of conditionality. Callaghy argues that they offer the developing countries needed opportunities in the social and political spheres to manage the impact of economic conditionality. However, the additional complexity of multiple conditionality suggests differently. The EU appeared convinced that such sociopolitical manoeuvres had been a contributor to the failure of economic conditionality. They needed to

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<sup>96</sup> See Section **3.4.3** above.

be curtailed. From the EU's perspective, the promise of embedded liberalism compounds the problems of evasion on the part of the ACP. The introduction of multiple conditionality, with its inclusion of sociopolitical criteria, thus blocks that escape valve for the ACP states.

## CHAPTER 4

### BARGAINING CAPACITY AND CONDITIONALITY: THE MID-TERM REVIEW

The third perspective of bargaining capacity, as mentioned in the previous Chapter, is that of the *expectations* which the parties bring to the negotiations. They consist of the assumptions which each side has of its own and of the other side's negotiating options as well as of the constraints on those options. An important component of expectations relates to the estimations of the parties of the prospects for ratification of the outcome of the negotiations.<sup>1</sup>

The expectations which negotiators carry in any negotiation are, of course, specific to the particular bargaining conditions. In looking at bargaining between the ACP and the Community, I will therefore focus on the negotiations for the Mid-Term Review. It is a valuable opportunity to examine the various expectations of the two parties in a specific context. I will concentrate principally on the bargaining for multiple conditionality within the overall negotiations which is directly related to the primary concern of this thesis. Reference to other areas of negotiation, within the Mid-Term Review, are thus incidental to this main area.

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<sup>1</sup> For a treatment of ratification, see Robert D. Putnam, "Diplomacy and Domestic Politics: The Logic of Two-Level Games", *International Organization* 42 (Summer 1988), pp. 435-437.

## **4.1 EXPECTATIONS**

### **4.1.1 Individual: ACP**

The ACP Group brought a number of expectations to the negotiations for multiple conditionality within the Mid-Term Review. All of these argued in favour of the Group's acquiescence to the introduction of some form of conditionality. The first two expectations were related and emanated from the Lomé relationship and the timing of the conditionality proposal by the Community. First, the ACP had no option but to negotiate on multiple conditionality. The initial inclination of the ACP was to seek to defer the negotiation. The main reason advanced was that it was a novel and unprecedented intrusion into the established pattern of the relationship. However, this approach was preempted by the timing of the proposal. It came in the middle of an existing Convention, a timing which forced the ACP Group to take a definitive decision. The Group had to deal with the matter at that point in time or it ran the risk of seeing the second half of the Convention placed in jeopardy. The Community would not be willing to continue to extend benefits to an ACP Group which had refused to accept the responsibilities and accountability which conditionality represented.

Secondly, there not only had to be negotiations on multiple conditionality but the negotiations had to come to a positive conclusion. Again, the concern was that a failure to agree might lead to the loss of the expected benefits of the second half of Lomé IV. There was, of course, opportunity for bargaining on scope, timing and content of the conditions. However, the

inevitability of the decision to accept some level of conditionality was beyond question. Thus, the ACP was faced with two initial, interlinked expectations. The first was that multiple conditionality had to be negotiated during the Mid-term Review. The Group also had to agree to its imposition in some form lest it lost its access to the benefits of the second half of Lomé IV.

A third expectation further reinforced the realisation that conditionality had to be accepted. It stemmed from a factor which had been raised in Chapter 3. The Group had little hope of offsetting its imposition through countervailing support.<sup>2</sup> The ACP Group had few alternative sources of developmental assistance other than the Community. In any event, any such donor, whether multilateral or bilateral, would demand similar conditional provisions in return.

Finally, the Group could not be certain of presenting a unified stance on conditionality even if it wished to object to the proposals of the Community. It would be recalled that the Governments of several ACP states had benefitted from political liberalisation and were themselves pursuing the types of market-led programmes sought under the conditionality provisions. They included Benin, Zambia and Guyana. In addition to those states, there were others e.g., Congo and Gabon, which were committed to national democratic conventions. Finally, there was an amalgam of states, mainly Caribbean and Pacific, which

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<sup>2</sup> The failure of the ACP to mobilise countervailing support in bargaining is treated in Section 3.4.



had a long history of commitment to democracy. Such states, for various reasons,<sup>3</sup> were not strenuously opposed to the basic concepts of the Community's proposals i.e., political liberalisation, good governance and market reform. Consequently, the ACP Group was not in a position to mount a concerted defence against conditionality. This last fact provided the ACP with further reason to move towards acceptance of the principle of conditionality.

It is useful to note that the ratification process did not directly affect ACP expectations. However, the consideration of the loss of benefits from the second half of Lomé IV alerted the ACP to the possible consequence. Ratification did assume a certain importance as all members of the Group expected the relationship to persist, in some form, beyond Lomé IV. The continuation of the Convention would depend on the record of compliance of the ACP states. Each state's record of compliance with the provisions of conditionality would, therefore, be instrumental in determining its eligibility for future Convention benefits. There were some ACP states which felt that, as the implementation of conditionality lay in the future, there might be opportunity for compromise on its provisions. Their rationale was based on the possibility of evasion or on limited capacity. Indeed, the evidence from structural adjustment programmes has been that deliberate evasion on the part of recipients and slippage due to poor

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<sup>3</sup> The groups, within the ACP, which were understanding of the push for good governance have been discussed more extensively in Section **2.4.2**.

technical capacity have both been common features.<sup>4</sup>

This prospect of future compromise was one element which helped draw together the various ACP factions on multiple conditionality. Multiple conditionality depends on cross-sectoral conditionalities and on participation by Governmental, private and other non-governmental sources. The scope for trade-offs among the qualifying criteria are greater than those for adjustment. It was a view held by some ACP states which opposed the imposition of multiple conditionality. In such circumstances, an agreement on multiple conditionality was not necessarily too high a price to pay for continued Lomé benefits. The costs of the actual process of implementation i.e., the full incidence of conditional burdens, lay in the uncertain future. The various ACP groupings could thus be reconciled. There was no need to justify multiple conditionality to those states which understood the motivation behind its introduction. For the opponents of multiple conditionality, there was some hope to be drawn from the possibility of future compromise.

#### **4.1.2 INDIVIDUAL: EU**

This ACP perspective was probably an optimistic assessment because the EU did not share the ACP's complex view of the implementation of multiple conditionality. The Community adopted a simplified approach to the process. The basic expectations of the

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<sup>4</sup> See Chapter 1, Footnote 24 for an indicative list of studies on the implementation process of adjustment programmes.

Community on the negotiations substantiate this fact. The first was born out of the progressive manner in which conditionality had evolved in the relationship and in the overwhelming superiority which it maintained over the ACP. In the view of the EU, the ACP had no other option than to accept the imposition of conditionality. The Community was also cognisant of the factors which affected the ACP. It was especially conscious of the fact that the latter had no significant alternative sources of development assistance.

Secondly, the Community was aware that the ACP states, in the main, already faced conditionality programmes with the MFIs and bilateral donors. The shock of the introduction of conditionality into the Lomé relationship would, therefore, be short-lived. Its introduction would conform to the reality of donor-recipient relations facing many ACP states. For its part, the Community has been increasingly building conditional elements into its external aid programmes, as demonstrated by its programmes with Eastern Europe. The ACP was being made aware of the fact that conditionality was becoming a *sine qua non* of Community assistance.

With respect to ratification, the EU did have to make a determination as to its choice of means for pursuing the ratification process. The Community was all too conscious of the limited technical capacity which the ACP possessed. In recognition of that fact, the EU had two choices. It could fashion a programme, adapted to that lack of capacity, with less strict criteria. Alternatively, it could design a more standard programme, with a genuine risk of seeing it

founder on the obstacle of limited capacity. Implicit in both choices was a reliance on the ACP recipients to participate fully in the implementation process by sharing the ownership of the programme.

The EU made its choice, during the negotiations, in a manner which responded to the problem of limited ACP capacity. Its choice was also in keeping with its traditional practice of implementing Lomé provisions. The Community chose to outline a standard of multiple cross-conditionalities but it also sought to enhance its own powers of implementation in the Convention. I will return to this issue later as it is a critical element in the study of operational capacity in the Lomé relationship.<sup>5</sup>

## **4.2 INITIAL NEGOTIATING STRATEGIES**

### **4.2.1 European Union**

As the Community was the initiator of the proposal for conditionality, it is more practical to focus, first, on its strategy. As early as September, 1993, the Commission had approved, in principle, the negotiating brief for the Mid-Term Review for submission to the Council for final authorisation.<sup>6</sup> The actual negotiations with the ACP did not start until May, 1994. Commissioner Marín identified three main objectives in that brief. They were designed to make

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<sup>5</sup> This element is dealt with in detail in Chapter 5.

<sup>6</sup> See "The Commission Proposes the Review of Certain Provisions of the Fourth ACP-EEC Convention", Press Release of the European Commission, (IP(93) 736, 9 September, 1993).

Community support for ACP development more effective "in the light of recent developments on the international political stage and of the lessons learned in the present Convention..."<sup>7</sup>

The three objectives were:

(a) to ensure that the Convention asserted the principles of democracy, the rule of law and good governance;

(b) to adapt the instruments of ACP-EEC dialogue to take better account of the basic principles and priorities of Community cooperation policy;

(c) to achieve more coherent and effective use of ACP-EEC cooperation instruments and procedures.

The Commissioner also proposed the extension of the scope of the ACP-EEC Council of Ministers to create a political dialogue, preferably on a regional basis i.e., EEC *Troika* of Presidents/Africa; *Troika*/Caribbean; *Troika*/Pacific.<sup>8</sup>

Central to the elaboration of the proposal was the Community expectation that the ACP faced an inevitable choice. The economic crisis, the end of the Cold War and the "new world interdependence" no longer made it possible to work with the model that was conceived twenty years ago.<sup>9</sup> The statements of the Commissioner did not make allowance for the

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<sup>7</sup> Ibid., p.1.

<sup>8</sup> See Chapter 2, Footnote 78 for a definition of the *troika*.

<sup>9</sup> Europe Agence Internationale No. 6061 of 10 September, 1993, p.5.

consideration of an ACP response or for negotiations on their substance. Their message was unambiguous. The reality which the ACP faced was that Lomé could only survive if it was able to adjust to recent global changes.

#### **4.2.2 ACP Group**

The conclusions which the ACP Group had drawn from its expectations of the negotiations had been less than encouraging. Their conclusions forced the Group into adopting a damage limitation strategy towards the conditionality negotiations in the Mid-Term Review. The Group had not been able to discern the early initiatives of the Community towards conditionality in the early years of Lomé IV. It had thus been unable to formulate a substantive response to the process as it developed.<sup>10</sup> It was all too evident that the ACP could not prevent the imposition of conditionality. Its sole recourse was to see, to what extent, it could contain the severity of the conditions.

Secondly, the ACP reaction to the Commission's negotiating brief of September, 1993 took almost six months to formulate. It was submitted only in February, 1994.<sup>11</sup> Moreover, on so central an issue as multiple conditionality, which covered two of the three main objectives of the Community, the ACP devoted exactly two (2) paragraphs out of fifty-three

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<sup>10</sup> I have described this failure in Chapter 2.

<sup>11</sup> *The Mid-Term Review of the Fourth Lomé Convention: ACP Memorandum to the European Union (ACP/27/003/94 Rev.3).*

(53) in the text of its Memorandum. The ACP highlighted, therein, its concern with the EU's policy of unilaterally withdrawing development assistance from ACP states as sanctions. The ACP indicated that it would propose the incorporation of an effective mechanism for resolving disputes arising from such violations. The Group also proposed that, *in accordance with the present Convention*, Convention resources be used to lend practical support for measures in favour of democratic values and institutions.<sup>12</sup>

Subsequently, in a document published one month later in March, 1994,<sup>13</sup> the ACP expanded slightly on its treatment of the good governance provisions. It accorded one (1) page out of forty-six (46) and three (3) paragraphs out of one hundred and sixty-eight (168) to "Human Rights, Democracy, the Rule of law and Good Governance".<sup>14</sup> The length of the treatment might have been marginally increased. However, on a relative basis, the topic had been accorded just as perfunctory an examination and even less consideration.

The ACP sought to make specific proposals, in three areas, for amendment of the Convention :

- (a) introduction of the principles (*of good governance, etc.*) without direct or indirect conditionalities or cross-conditionalities in line with current international thinking

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<sup>12</sup> Ibid., p. 2.

<sup>13</sup> *The Mid-Term Review of the Fourth Lomé Convention: Explanatory Memorandum* (ACP/27/001/94 Rev. 3).

<sup>14</sup> Ibid., pp. 32-33.

and the direction in which many ACP states have themselves decided to move;

(b) providing for an effective mechanism for the resolution of disputes arising from any perceived contravention of the provisions;

(c) providing financial support for democratic change, human rights..., provided that the request for the support shall originate from the ACP state concerned and be included in the indicative programme as one of the sectors for intervention.<sup>15</sup>

From the above, it is clear that the ACP Group had resigned itself to its fate. Nonetheless, it was trying to see how best it could retain some modicum of control over the development of conditionality. It did not wish to abandon both judgement and responsibility for action to the Community. The damage had been done and was accepted by the ACP; its task was now to limit the severity of the conditionality programme.

#### **4.3 NEGOTIATING POSITIONS**

A useful guide to the overall negotiating positions of was offered by the statements of the two Ministerial representatives at the opening of the negotiations in Swaziland in May, 1994. I do not propose to examine each speech in detail. However, a brief content analysis reveals a great deal of the substantive positions and of the perceptions which informed those positions.

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<sup>15</sup> Ibid., p. 33. (Italics are mine).



#### 4.3.1 ACP

In outlining the Group's negotiating objectives, the President of the ACP Council of Ministers, George Brizan of Grenada, identified several elements needed for the introduction of the principles of governance and democracy. They included consultation; patience; material support; cultural understanding and positive encouragement. The ACP Group restated its commitment to the general principles. It acknowledged that "development could be considerably enhanced in an environment where human rights are respected, democracy practised, the rule of law prevails and good governance a constant objective of political leadership".<sup>16</sup>

The ACP President recognised that some ACP states still had significant steps to take in the pursuit of those principles. However, he drew attention to the reality of ensuring inherent stability between the "incipient nature of many [ACP] states and their institutions". He stressed the problems of their inherent poverty and the likelihood of a high degree of political, social and economic instability. It was in that context that the Group called for joint identification of the tasks to be undertaken, the employment of the appropriate instruments and the use of existing institutions.

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<sup>16</sup> See Opening Statement by the Honourable George Brizan, President of ACP Council of Ministers in "Opening of negotiations in the Context of the Mid-Term Review of Lomé IV: Conclusions of the Meeting between ACP and EU Ministers", Mbabane, 20 May, 1994 (ACP/00/003/94).

Minister Brizan first urged the need for a workable mechanism for consultation between the parties. He argued that punitive measures could "be dysfunctional and should therefore not be employed as the principal instrument of change".<sup>17</sup> Secondly, he called for an appreciation of the sociopolitical problems in ACP states which the EU had gained from the historical links between the two Groups. He noted that the development of social and political institutions in the EU itself had been the result of a long evolution. Accordingly, he urged patience on the part of the EU: it was not responsible policy to wish away sociopolitical reality in the haste to see ACP societies change.

Thirdly, he stressed that the material costs of desirable change would be high and particularly so in cases where progress might have slowed. He thus called on the Community and the ACP to accept that the process of promoting such change would require material and financial support.<sup>18</sup> The ACP President further urged the need to take due cognisance of the specific sociopolitical and sociocultural environment of ACP states. He emphasised that support of the processes of change be provided through "instruments of encouragement rather than exclusions or penalties".<sup>19</sup> He concluded by presenting the three main pivots in the ACP position on conditionality, mentioned above.

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<sup>17</sup> Ibid., p. 2.

<sup>18</sup> Ibid., p. 3.

<sup>19</sup> Ibid., pp. 3-4.

There were two notable features in the presentation of the ACP negotiating position on conditionality: its context and its concession. The tone of the presentation and the elements identified for the promotion of the basic principles of governance were both cast in the context of an appeal. It was an appeal to the Community to appreciate the ACP's position. In other words, the ACP had conceded the point that it was the EU which determined the parameters of the negotiations. First, it was the EU which had to assent to joint consultations, prior to enacting punitive measures. It was the EU which also had to agree to consider the pace of sociopolitical change. Finally, positive encouragement for the process i.e., material assistance, could only be provided by the EU. Even as the ACP Group elaborated its position, it was signalling that its position was dependent on the acquiescence of the EU.

The ACP had conceded that the introduction of the basic principles was unavoidable. It had also acknowledged that the Community would pursue the promotion of those principles, regardless of ACP views. The Group could only accept the inevitability and seek to limit the potential damage. It sought to do so by accepting the introduction of the principles but without cross-conditionalities. That insistence rang rather hollow, given the ACP's resignation to the fact of sanctions. Its acceptance of sanctions was indicated by the emphasis which the ACP placed on positive measures of encouragement for good governance. That emphasis was a recognition that, in cases of contravention, the consequence would be punitive measures.

A second feature of the ACP's position was concession on an issue which should have proved of some bargaining value to the Group. At the outset of his presentation, the ACP President touched on the issue:

"Neither partner should feel itself so close to perfection in these goals<sup>20</sup> that criticism of its record is inappropriate... we have not always been impressed with all aspects of the EC's approach to the perception of this subject. The strengthening of the Human Rights clause should, *inter alia*, permit some scrutiny of the Community's arrangements for ACP nationals within the EU's borders."<sup>21</sup>

The issue of the treatment of ACP nationals - migrant workers, students, etc. - had been a regular topic of debate between the two sides during the implementation of Lomé III and the negotiation of Lomé IV. The matter had been of sufficient concern to warrant a study on racism and xenophobia by the Joint Assembly. It had also become a focal point in the work of the Social and Cultural Foundation.

It was of sufficient import to the ACP to have served as one counterpoint for the Group in the debate on governance. It would have ensured some semblance of balance in the projection of the issue in the Convention. The ACP failed to make use of the opportunity to develop its own position on the issue. However, some reference to it was contained in the conclusions. This failure reflected an admission by

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<sup>20</sup> The reference here is to the basic principles of human rights, democratisation and good governance.

<sup>21</sup> Opening Statement of President of ACP Council..., op. cit., p. 2.

the ACP Group that it was on the defensive in the negotiations over conditionality. It was thus unable to broaden the debate to include its own legitimate and long-standing concerns.

The ACP's presentation of its negotiating position included other elements which were relevant to bargaining capacity and conditionality. They also serve as a justification of the conclusions drawn in the preceding Chapter. They covered external projection and the lack of technical capacity. In the case of external projection, the ACP President underlined the Group's weak international stature by seeking the assistance of the Community. He called on the Community to plead the ACP's cause in two important areas: the liberalised trading system, following on the conclusion of the Uruguay Round and international debt negotiations.

While neither area was directly linked to multiple conditionality, the ACP Group's appeal helped to emphasise its own lack of an external projection. The appeal also signalled the Group's willingness to have the Community act as its *porte-parole* on multilateral issues. Thus, the ACP urged the EU, as the latter sought to strengthen its competitive position internationally, to "take the opportunity to channel some of the additional scope thereby created in the direction of the ACP."<sup>22</sup>

The ACP also urged the Community to act as its patron in the global debate on the important issue of international debt:

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<sup>22</sup> Ibid., p. 5.

"We further call on the Community to design and agree upon a coordinated debt policy and to use its influence within the Bretton Woods institutions to have those entities institute a debt reduction policy and programme for severely indebted ACP members."<sup>23</sup>

The second element, drawn from those treated in the last Chapter, was the ACP's lack of technical and human capacity. The ACP Group bluntly criticised the failure of Convention mechanisms relating to trade development to facilitate the growth of ACP economies. According to the ACP, they lacked appropriate infrastructure, institutions and human resources.<sup>24</sup> In focusing on human resources, the Group both highlighted a specific problem and identified its agreed means of solution. The existing Convention had espoused the increased use of ACP human resources in areas such as consultancies, implementation of EDF contracts and research.<sup>25</sup> The rationale was that sustainable growth was dependent, to a significant degree, on the provision of qualified and experienced human resources.

The ACP states complained that the widespread substitution of external technical assistance deprived indigenous experts of critical experience. They contended further that the departure of the foreign experts often left a void which was difficult to fill. They urged the Community to follow the lead of the MFIs and regional development banks. The latter were

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<sup>23</sup> Ibid., p. 11.

<sup>24</sup> Ibid., p. 6.

<sup>25</sup> Article 275(c) of the Fourth ACP-EEC Convention of Lomé.

now encouraging the greater participation of nationals in the implementation of projects in their own countries.<sup>26</sup> That second complaint was based on the Community's failure to live up to the commitment to greater use of ACP expertise in programme and project implementation.<sup>27</sup>

However, it did pinpoint two separate concerns which were important factors in the elaboration of a conditionality programme. The first was the admission that the ACP states lacked national expertise, a need which was not being met by the Community's method of implementation of the Convention. The second, and more critical, observation was that the preferred approach of the EU of meeting that need was to employ external technical assistance.

This latter feature has had two effects. The first has been to limit the contribution of the Convention to the building of the ACP national command of crucial skills. The second effect was to retain and solidify EU control over the implementation process. The identification and qualification of experts had to be done in accordance with Community criteria. It was a fact which, most often, resulted in a preference for European experts. Community control was also manifest in its practice of reverting to the EU's own services to assume a greater responsibility for Lomé projects. It is a practice which is readily apparent in the

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<sup>26</sup> Opening Statement by the President of the ACP Council..., op. cit., pp. 13-14.

<sup>27</sup> Article 275 (j) of the Fourth ACP-EEC Convention.

operation of the Convention.<sup>28</sup> It is also a critical element of the approach proposed by the Community for implementing the second half of Lomé IV and its multiple conditionality programme.

#### **4.3.2 EU**

The initial negotiating position of the Community was articulated by the President of the Council of the European Union, Minister Theodoros Pangalos of Greece. He adopted a position which was reflective of both past Community attitudes to the Convention and the varying expectations which the Community had brought to the negotiations. The context of his presentation was "change within continuity" which had been a common theme of the Community since Lomé II.<sup>29</sup> Its intent was to build upon an accepted base formula which had improved functioning, not overall reform, as the principal objective. This central theme allowed the Community to propose the need for change so as to reflect transformed global realities. The theme also allowed it to reaffirm its commitment to the principles of the *acquis* - partnership and dialogue; equality and non-discrimination; respect for sovereignty; and secure and reliable aid.

At the same time, the President of the EU Council

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<sup>28</sup> The practice is extensively covered in Chapter 5 on **Operational Capacity**.

<sup>29</sup> Speech by the President of the Council of the European Union on the Occasion of the Formal Opening of Negotiations for the Mid-Term Review of the Fourth Lomé Convention in "Opening of negotiations in the context of the Mid-term review of Lomé IV: Conclusions of the Meeting between ACP and EU Ministers" (ACP/00/003/94), p. 3.



based his short and direct statement<sup>30</sup> on the Community's main expectations. These were that the ACP faced an inevitable choice and that the introduction of conditionality was a given, just requiring mere explanation. The explanation lay partly in the changed global reality. It also stemmed from the need to recognise that respect for democratic values was necessary for sustainable and balanced development.<sup>31</sup>

In keeping with these expectations, the President outlined the changes which were required of the ACP. The changes evoked three basic principles of accountability, effectiveness and efficiency.<sup>32</sup> First, in order to ensure ACP accountability for the application of good governance, the Community proposed the insertion of an "essential element" clause into the Convention. This clause was to enable appropriate measures to be taken in cases of grave and persistent violations of human rights or serious interruption of the democratic process. The clause, while respecting objective and fair criteria, non-discrimination and consultation, was drawn up in keeping with Article 130u of the Treaty of the European Union

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<sup>30</sup> The contrast, in length, between the ACP and EU statements was graphic: the text of the ACP's took up nineteen (19) pages while that of the EU was considerably less than half that length.

<sup>31</sup> Speech by the President of the Council of the European Union..., op. cit., p. 5.

<sup>32</sup> Herein lies a link with the Pisani Memorandum and the origins of conditionality. Effectiveness had been a primary motivation of the inverted conditionality which had been proposed by the Memorandum. See Chapter **2.1.1** above.

(Maastricht).<sup>33</sup> It thus called into immediate contention the argument, noted earlier, of some in the ACP that the Article made a specific exclusion for Lomé.<sup>34</sup>

Secondly, in the interest of effectiveness, the Community sought changes in the programming of Lomé assistance. The changes were intended to allow incentive instruments and supplementary resources to take greater account of Community objectives in priority sectors. The priority sectors were identified as *support for institutional and administrative reform; enhancing the value of human resources; the environment; and revitalising the economic fabric through revival of the private sector*. Three of these four illustrative examples were directly related to one or other objective of multiple conditionality. The Community was thus striving to ensure that its main goal was intrinsically woven into all areas of negotiation and change.

Finally, the Community turned to the third pillar of efficiency. It called for an amendment of Convention procedures and the improved implementation of projects through the use of studies and technical assistance. This call was based on the recommendations of the "post-Fiji" study on procedures for financial and technical cooperation.<sup>35</sup> Minister Pangalos stressed

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<sup>33</sup> Ibid., pp. 5-6.

<sup>34</sup> See Section **2.4.1** for the discussion of this argument which was raised by some ACP states.

<sup>35</sup> See *Report and Resolution of the ACP-EEC Development Finance Cooperation Committee* (ACP-CEE 2130/1/93 REV 1, May 1993), pp. 40-68 for the

that the "limited readjustment" would in no way involve the transfer, to the Community, of any of the responsibilities so far held by the ACP states.

There was some doubt cast on that reassurance when viewed against the rationale proposed in the Commission document presented to the Council for the negotiations.<sup>36</sup> The document stated that the current system was "confused, complicated and, above all, unbearably bureaucratic".<sup>37</sup> In spite of the reassurance, the Commission proposals clearly emanated from considerable discontent with the prevailing regime. One important aspect of the proposals was the replacement of the fixed five-year EDF allocation for each ACP state by a sliding arrangement of tranches. The release of each tranche, after the first, would be dependent on the state satisfying its various commitments. The proposals for change in the detail of the Convention were buttressed by the Community's call for a new and wider dialogue with the ACP. The purpose of this dialogue was to address genuine policy themes and issues of a general nature.

There was very little in the Community's presentation which was amenable to negotiation. In the main, the proposals were designed to bring the

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conclusions of the study. The document was the response to a demand made by the Commissioner Marín for a study on the obstacles to implementation of the operations of the Convention. It was termed the post-Fiji study because the demand was made in Suva, Fiji at a Joint ACP-EEC Council of Ministers Meeting in 1990.

<sup>36</sup> See Section **4.2.1** above.

<sup>37</sup> Europe Agence Internationale No. 6061, p. 6 (10 Sept. 1993).

Convention into line with the new reality of multiple conditionality. First, it would do so through the introduction of the punitive clause in cases of contravention. It would also ensure that the ACP states could be held to account for their commitments, through the revised procedures for phased aid allocation. The contrast between the presentations of the two sides matched their negotiating expectations. The ACP Group was constrained by its limited or non-existent options. It was a supplicant seeking primarily to minimise the potential severity of conditionality. The EU, confident of its own negotiating power, tried to coat the bitter pill of conditionality in the sugar of justifiable explanations. It would maintain respect for partnership, dialogue and sovereignty but the ACP needed to face up to changed realities.

#### **4.4 OUTCOME OF THE NEGOTIATIONS**

The conclusions of the negotiations represented a significant triumph for the Community in that it obtained approval for the major elements in its negotiating brief. Multiple conditionality was accepted as a general concept although the details of its application were left for elaboration during the process of implementation:

"Respect for human rights, democratic principles and the rule of law, which underpins relations between the ACP States and the Community and all provisions of the Convention and governs the domestic and international policies of the Contracting Parties, is an essential element of this

Convention."<sup>38</sup>

The sanction to ensure compliance with the above commitment was expressed in a suspension clause. It outlined a process of consultation among the parties, in the case of contravention, to resolve the matter. Should consultation fail to resolve the matter, the offending party could be suspended from the Convention.<sup>39</sup> The conditionality clause was accompanied by two related provisions. The first was an increased emphasis on the positive measures i.e., the provision of financial resources to encourage the promotion of human rights, democratisation and good governance.<sup>40</sup> The second was the explicit identification of the economic plank of conditionality. It stressed the importance of promoting an environment favourable to the development of the market economy and of the private sector.<sup>41</sup>

The Community had thus obtained approval for its measures aimed at promoting good governance and economic liberalisation. It gained agreement on both the negative measures of sanction and the positive measures of encouragement for good governance. However, it did not obtain all that it had sought on the issue of conditionality. The ACP sought, and

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<sup>38</sup> Article 5.1 of the Lomé IV Convention as revised by the agreement signed in Mauritius on 4 November, 1995, *the Courier* No. 155, January-February, 1996.

<sup>39</sup> *Ibid.*, Article 366(a). The relevant provision is spelled out in the **Introduction** above.

<sup>40</sup> *Ibid.*, Article 5.3.

<sup>41</sup> *Ibid.*, Article 6.

managed, to have rejected the Community's efforts to link most resource transfers to the conditionality regime. Stabex transfers, in particular, had been singled out as one area which should be made subject to conditionality provisions. The ACP managed to frustrate the Community's attempts to establish that linkage.

On the other hand, the Community did obtain agreement on the companion measures for the application of conditionality. The negotiators agreed on the changes to the aid procedures, as proposed by the Community. These changes subjected the provision of EDF resources to a phased allocation and a series of conditionalities. As was customary, each ACP state would be allocated a nominal EDF indicative figure. However, unlike prior practice, the Community would not be legally obligated to make that allocation available to the state. 70% of the amount would be allocated during the first tranche of three years. The remaining 30% would be subject to a favourable review of the first three-year period of implementation.

There remains some uncertainty as to exactly what constitutes "favourable review" but some criteria have been advanced, all in the name of efficiency and effectiveness. These include the following: the size of the total allocation; progress made in implementing the first tranche; the state of preparation for the second tranche; and the specific situation of the ACP state concerned.<sup>42</sup>

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<sup>42</sup> See Michele A.M. Lowe, "Lomé IV - The Next Five Years and Beyond", Briefing Paper 1 (Prepared on behalf of the Council for Europe, November 1995).

The second measure supporting conditionality was the introduction of a wider form of political dialogue. It was intended to cover "issues and problems of foreign policy and security and those of general interest and/or common interest to a group of countries."<sup>43</sup>

"...the Council of Ministers shall conduct an enlarged political dialogue... Such dialogue may also take place outside this framework (*Lomé*) with a geographical or other composition suited to the subjects under discussion..."<sup>44</sup>

The provisions were intended to permit exchanges on issues of political import to groupings within the two parties. They would also legitimise a much wider form of dialogue on all areas of policy, including social and political issues. Such issues were formerly matters of domestic concern but are vital to the implementation of multiple conditionality. The provisions also established a potential format for the political dialogue which could be organised along regional or sub-group lines. This proposal has a clear potential to undermine the unity of the ACP as a Group. It encourages the presentation of issues from sub-groups representing less than the whole of the ACP, with a possible danger of partisan or special interests being pursued. There is thus a potential for ACP divisiveness.

The gains of the ACP Group, in the negotiations on multiple conditionality, were much less noteworthy.

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<sup>43</sup> New clause in the Preamble of the *Lomé IV* Convention as revised...

<sup>44</sup> Article 30.3, *Lomé IV* Convention as revised... (Italics are mine).

The main thrust of its negotiating position - the attempt to limit the potential severity of multiple conditionality - was ineffective. The Group failed to obtain the inclusion of provisions which might have served to soften the imposition of a full multiple conditionality programme.

The ACP failed totally to gain any ground on the treatment of ACP nationals in EU countries. An initial reading of the revised Convention would seem to indicate that the ACP had made some progress. The two sides agreed on what seemed a clear commitment:

"The Member States (and/or, where appropriate the Community) and the ACP States will continue to ensure, through legal or administrative measures which they have or will have adopted, that migrant workers, students and other foreign nationals legally within their territory are not subject to discrimination...notably in respect of housing, education, health care, other social services and employment."<sup>45</sup>

However, the apparent gain was ephemeral, as a close analysis of the relevant provision reveals.

Since Lomé III, the ACP had been struggling to have the Convention address the problem of its nationals in the Community. The provision seemed to have responded to the Group's concerns. However, what appears, at first blush, to be a laudable advance by the ACP turns out to be hollow and exhortatory. The provision above did call on both parties to respect the rights of each other's nationals but it is a restatement of the provision in Lomé IV. It contains no new elements or commitments.

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<sup>45</sup> Ibid., Article 5.2.



Unlike the treatment of conditionality, there is no accompanying measure to ensure the enactment of the provision. There is no scope for the periodic monitoring of the enactment or for a review of the situation in Community states. The procedures governing Article 5, of which the provision is a part, are contained in Article 366(a) of the revised Convention. The process in the latter Article refers solely to the "essential element" i.e., respect for human rights, democratic principles and the rule of law. In effect, the process applies primarily to the ACP.

The nature of the consultation mechanism, for dealing with disputes arising from Article 5, militates against the ACP. Article 366(a) speaks of either party bringing up for consultation a perceived infringement of the essential element. It thus implied that the ACP could also bring the Community states to book on an issue of good governance e.g., their treatment of ACP nationals. It is a remote but theoretical possibility, given the definition of the essential element. However, the subsequent clauses indicate that the consultation mechanism makes no allowance for the involvement of an individual EU state. The mechanism will comprise of representatives of the *troika* of EU Presidents and the Commission, on the Community side, and representatives of the ACP *troika* plus two additional members of the ACP Council of Ministers chosen by the state concerned.

The mechanism removes the possibility of a charge of infringement being brought against a Community state. It thus implies that the sole scenario for consultation is the Community in dispute with an ACP

state, not *vice-versa*. The commitment on the treatment of foreign nationals in the Community was potentially a major bargaining tool for the ACP. It has emerged, in the final conclusion, as little more than a *pro-forma* pledge of honour by the Community, with no apparent means of ensuring its compliance.

#### **4.5 CONCLUSION**

The outcome of the negotiations on the Mid-Term Review served to justify many of the observations made in the analysis of bargaining capacity. The respective expectations of the ACP and the EU, as outlined at the beginning of this Chapter,<sup>46</sup> were fully reflected in the conclusions of the negotiations. None of the conclusions called into question either the superior negotiating power of the Community or the inevitable choice facing the ACP.

The elements discussed in the previous Chapter were also verified, in the main, by the conclusions. I have already demonstrated the relevance of external projection and the lack of ACP technical capacity.<sup>47</sup> I will only cite one other which has been substantiated by the assessment of the negotiations of the Mid-Term Review. It is among the more salient: the EU's control of the agenda. The Community's control was evident in two ways. It was evident in the EU's preparedness, as shown by the early submission of its negotiating

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<sup>46</sup> See Section **4.1** for the outline of the respective expectations.

<sup>47</sup> See Section **4.3.1** above.

position.<sup>48</sup> The EU's control was also visible in the negotiating posture of the ACP Group. The latter's position was always reactive, seeking to mitigate the effect of the proposals of the Community.

The outcome of the negotiations demonstrated an important omission by the ACP Group. The Group did not attempt to negotiate or clarify the operational details of multiple conditionality. Its attention was fully concentrated on its effort to mitigate the effect of conditionality. The ACP's failure to clarify the details of programme design meant that the second stage of conditionality negotiations would be left to the individual state. It also meant that the ACP had failed to make use of its collective negotiating strength. It would be left to the individual state, in question, to negotiate, with the Community, on the level and duration of sanction and on the other related issues. Based on the analysis of bargaining capacity in Chapter 3, the Group's negotiating strength was not particularly effective. However, its collective negotiating power is considerably greater than that of any single ACP state.

The ACP Group had also missed an opportunity to move the debate on conditionality to a legitimate and important area of concern. Its focus had been on evading the inevitable, the introduction of conditionality. Given that inevitability, negotiation on the imposition was a moot issue. The ACP failed to recognise the value of moving the conditionality debate to another level, that of clarifying the implementation details. The ideal time to have done so

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<sup>48</sup> See Section 4.2.1.

would have been during the negotiations of the Mid-Term Review. Conditionality was a central issue in those negotiations and it was there that the ACP, as a Group, could have exerted its most concentrated form of negotiating power.

The negotiations for the Mid-Term Review also demonstrated an important aspect of the Community's policy towards Lomé. It was less evident in the negotiations on conditionality than it was in the overall negotiating position of the Community. It will be recalled that the EU had proposed changes in the procedures governing resource allocation and programming.<sup>49</sup> The thrust of the changes was to place more of the Convention operations under the control of the Commission. Many of the proposals were not agreed but, collectively, they conveyed a strong message. The message was that the Community was determined to establish its own firm control of the Convention. In introducing multiple conditionality, it was establishing its overt control over the qualifying criteria for assistance. It sought to do the same for operational matters through its proposals for changes in procedures and programmes.

In sum, the negotiations on the Mid-Term Review verified the main conclusion of Chapter 3: the EU did exercise an overwhelming control of bargaining capacity. The examination of operational capacity in the next Chapter will indicate whether the EU also demonstrated an inherent superiority and control in

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<sup>49</sup> See Section 2.2.4 on the Mid-Term Review where the proposed changes are raised. They are discussed, in greater detail, in the next Chapter, in Sections 5.5.1 and 5.5.2.

the operations of the Convention.

## CHAPTER 5

### OPERATIONAL CAPACITY

In this Chapter, I examine *operational capacity*, the second element of residual capacity. First, I concentrate on its nature and on the varying interpretations which the ACP and EU hold of operational capacity. I assess the role of the institutional arrangements of the Convention in the four main areas of cooperation - industrial cooperation, the trade regime, agricultural cooperation and the management of financial and technical cooperation. I then examine the extent to which any capacity generated has helped to build adaptability to changed conditions. I conclude with an overall assessment of the contribution of the Lomé relationship to operational capacity.

This Chapter is, in part, an attempt to gauge the developmental effectiveness of ACP-EC cooperation under Lomé. My focus on the two Groups, as collectives, excludes coverage of the developmental impact on the individual ACP state, except in cases where it allows me to generalise to the Group. I will, therefore, not place great emphasis on the "development ecology" of the individual state<sup>1</sup> i.e., the quality of economic policies pursued; the degrees of compliance and honesty; the efficiency of aid

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<sup>1</sup> The term "developmental ecology" is introduced in Trevor Parfit's study of aid to Sierra Leone under Lomé I. See Parfit, "EC Aid in Practice: Sierra Leone", p. 143 in Christopher Stevens ed., *EEC and the Third World: A Survey 4 - Renegotiating Lomé* (London: Hodder and Stoughton, 1984).

planning; and the level of popular mobilisation and participation.<sup>2</sup> Some of these qualities will be touched on but in the context of a general treatment of the ACP Group as a whole.

The concept of developmental effectiveness, however, embraces more than the absorptive capacity of the recipient state. It involves the objectives of the aid programme, its formulation and design as well as its implementation. All of these elements contribute to the overall effectiveness of the programme and thus, to its developmental impact. Consequently, I must look at the donor's role in Lomé cooperation if I am to assess the operational capacity generated by that cooperation. In order to do so, I examine the EU's role in various areas of operational capacity, juxtaposing it against that of the ACP.

The contribution of the EC was raised in my contacts with Commission and ACP officials.<sup>3</sup> Both sides saw the effectiveness of programmes being affected by the quality of Commission services but from differing perspectives. There have been very few evaluations of Lomé assistance in terms of its developmental effectiveness.<sup>4</sup> A perusal of the inventory of EC

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<sup>2</sup> See Enzo Grilli, *The European Community and the Developing Countries* (Cambridge: Cambridge University, 1993), p. 125 for a typology of the elements of developmental ecology.

<sup>3</sup> The matter arose in my interviews with Peter Pooley, Deputy Director-General of the Development Directorate, DG VIII, of the Commission and with Carl Greenidge, Deputy Secretary-General of the ACP.

<sup>4</sup> There are only two studies done on individual states under Lomé I: Trevor Parfit, "EEC Aid in Practice: Sierra Leone" and Adrian Hewitt, "Malawi and

studies of Lomé cooperation<sup>5</sup> reveals that there have been some evaluations of sectors and individual programmes and projects. However, there is little on the overall aid programme. There is certainly nothing on the generation of capacity in recipient countries. By mid-1995, the end of the period under study, the Commission had begun a general evaluation of its developmental assistance covering all aid recipients, not just the ACP.<sup>6</sup>

My effort to measure operational capacity generated by ACP-EU cooperation must rely on a limited set of material. These are principally the secondary studies of the various sectors of the Convention and the published reports of the Court of Auditors of the Community. The Court publishes an Annual Report on the EDF as part of its general audit of the Community. The Report on the EDF is largely from an auditor's point of view. Nonetheless, the Court of Auditors does produce, periodically, a specific treatment of a section or sections of the Convention. This treatment is usually part of the Annual Report or issued as a Special Report. It has not been applied to the Convention *in toto* or to the whole of the ACP Group. However, it has dealt with aid to groups of ACP states.

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the EEC: The First Seven Years", both in Christopher Stevens ed., *EEC and the Third World: A Survey 4*, op. cit.

<sup>5</sup> See European Commission, *Evaluation Inventory* (Third Edition, November 1994).

<sup>6</sup> Interview with Sean Doyle, Head of the Evaluation Unit of DG VIII on 6 September, 1995.



Operational capacity, in my judgement, encompasses more than developmental effectiveness. It also involves a notion of sustainability. In this sense, sustainability means, first, a generation of capabilities to handle the demands of existing programmes. It also includes capabilities to meet demands arising from changing conditions in the relationship. Operational capacity, if it is to be effective and sustainable, must equip both the donor and recipient with two basic capabilities. They are the ability to adapt to changing social, economic and political circumstances and the capacity to channel resources in a pragmatic manner, essential for successful development.<sup>7</sup>

#### **5.1 INTERPRETATIONS OF OPERATIONAL CAPACITY**

The two Groups hold different perceptions of institutional capacity and of the contribution which the Convention has made to the building of that capacity. The perceptions are not contradictory although they are not inherently complementary.

For the Community, the Convention makes a dual contribution to the building of ACP capacity. It contributes, first, through technical cooperation i.e., the provision of technical assistance and training. Secondly, it does so through the operational experience which the ACP states gain from the joint management of the Convention. Both aspects are

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<sup>7</sup> For a treatment of adaptability as an aspect of capacity, see Dennis A. Rondinelli & John D. Montgomery, "Managing Economic Reform: an alternative perspective on structural policies", *Policy Sciences* 23, 1990, p. 77.

outlined in the Convention. The primary emphasis is on technical cooperation which is intended to assist the ACP states to develop national and regional manpower resources and sustainable institutions.<sup>8</sup> Training is seen as a vital component of technical cooperation which helps "phase out technical assistance with a view to staffing projects entirely and on a permanent basis with nationals of the ACP states."<sup>9</sup> With respect to management capacity, the Community claims that the Convention offers a unique feature. Its novelty lies in the joint role which the ACP recipients play in the appraisal, monitoring and evaluation of projects and programmes.<sup>10</sup>

The ACP, on the other hand, adopts a more pragmatic approach to the contribution of Lomé to operational capacity. The ACP judges the contribution in terms of the skills and expertise which the Group has acquired in managing the various sectors within the Convention.<sup>11</sup> However, there are nuances within this interpretation. The first is that a distinction has to be drawn between the ACP, as a Group, and its functional arm, the ACP Secretariat. Secondly, the ACP distinguishes between capacity in handling "global"

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<sup>8</sup> See Articles 275 and 276 of the Fourth Convention of Lomé for the provisions applicable to technical cooperation.

<sup>9</sup> Ibid., Article 275 (j).

<sup>10</sup> Ibid., Article 222.3.

<sup>11</sup> I am grateful to Carl Greenidge, Deputy Secretary-General of the ACP Secretariat for this interpretation of operational capacity. During the latter stages of the negotiations on the Mid-Term Review, he served as Officer-in-Charge of the Secretariat.

issues and in dealing with issues which are "Convention-specific". Global issues are those where the main fora for discussion and decision lie outside the Lomé arena e.g., those within financial cooperation. Convention-specific issues e.g., those within the trade sector, are those which derive directly from the ACP-EU arrangements.

The two qualifications are important and linked. In addressing operational capacity within Lomé, attention must be given to the functional arm, the ACP Secretariat, although the ACP Group, as a political body, does play a critical role in policy-oriented areas. The linkage between the two distinctions lies in the recognition that the capacity of the ACP Secretariat is directly affected by the nature of the issue, whether global or Convention-specific. I will elaborate on this matter in my treatment of the contributions of the two ACP arms to operational capacity.

#### **5.1.1 Community**

In examining the Community's focus on technical assistance, there is some basis for ambivalence in determining whether such assistance has been a positive contribution to the ACP. Increased programme responsibilities have led to a growing burden of work in the administration of the EDF. The EDF has been faced with the emergence of new elements in the operations of the Convention. They include more complex demands of programme management, the introduction of new instruments such as structural adjustment support, Stabex reforms and the increase in the involvement of non-governmental partners in

implementation.

The Commission is cognisant of these new burdens:

"To avoid this new workload slowing down aid operations, or leading to an inadequate monitoring of their quality, greater recourse to technical assistance personnel and the setting up of management units financed under the programme in question have become more frequent. But these units have a limited life span and transferring their tasks to national authorities when the programme is completed is not always easy."<sup>12</sup>

This admission goes to the heart of the ambivalence on the value of technical assistance. From the ACP perspective, such technical assistance, however desirable, often proves a major obstacle to the utilisation of comparable national skills.

This is not to say that the experience of Community technical assistance has not often been positive. Two examples will suffice to illustrate this point. The first is drawn from the early emphasis in Lomé projects, in the 1980s, on the strengthening of infrastructure in ACP countries. The Community, in dealing with a project on the supply of potable water in Guyana, was able to introduce a holistic approach to the project. It was able to broaden its focus from supply of the services to encompass tariffs for its provision and the related issue of sewerage treatment.<sup>13</sup> The approach helped to enhance national capacity in the overall water sector. Similarly,

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<sup>12</sup> European Commission, *EU-ACP Cooperation in 1994* (Special Edition of ACP-EU Courier, June 1995), p. 38.

<sup>13</sup> Interview with Carl Greenidge who formerly served as the subject Minister in Guyana for Lomé matters.

projects on sea defence helped to broaden capacity to deal with irrigation and agriculture.

The second positive example is drawn from the health sector. Within the sector, the EU has increased its allocation from 160 million ECUs under Lomé II to 260 million in Lomé III and to 690 million in Lomé IV.<sup>14</sup> It is a programme covering a wide range of activities but I wish to focus on the HIV-Aids programme. In 1990, the Commission sought to reorient its approach to concentrate on three areas: the development of regional programmes and capacity in training health and research staff; the coordination of actions related to this major health problem; and helping ACP states to draw up and implement a multi-sectoral response. The programme covers 35 countries, one-half of the ACP membership, and has been considered to be quite effective. The ACP has clearly recognised the contribution of the EU in building up collective capacity to deal with the Aids problem. At the Joint Assembly of ACP-EEC Parliamentarians in Kampala, Uganda in 1991, the ACP representatives sought greater Community involvement in combatting the disease. Motivated by the high incidence of Aids in the East Africa region, they called for Aids to be considered a major theme for study by a working group of the Assembly.

In spite of such positive contributions, the ACP Group has maintained a consistent clamour for a more

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<sup>14</sup> See European Commission, *EU-ACP Cooperation in 1994*, op. cit., pp. 59-60 for a description of health sector programmes.

equitable treatment in the area of technical assistance. There is the fact, conceded by the EU, that there remains a major difficulty in replacing expatriate assistance by national counterparts. However, there is a greater ACP concern that the provision of technical assistance, in the form of consultants, is overwhelmingly skewed towards EU nationals. This bias has resulted in a low level of involvement of ACP nationals in consultancies or on technical missions. In defence of its current policy, the EU argues that the only limit on its use of ACP nationals has been their unavailability as experienced consultants. The Community contends that there are simply not enough ACP experts to match the expectations of the ACP Group. This response has not satisfied the ACP which continues to insist that little effort has been made to identify and utilise suitable ACP consultants. As I will illustrate shortly,<sup>15</sup> the ACP did try to help resolve the problem through the compilation of a roster of ACP consultants.

The second area of Community contribution to operational capacity highlights the greater involvement of the ACP states in the formulation, monitoring and evaluation of programmes and projects. Their increased role in the programming exercise has made a significant contribution to ACP operational capacity. It has equipped them with a greater familiarity with the analysis of the project cycle and the acquisition of skills in programme management. Once more, a certain ambivalence arises in this area for neither side is wholly satisfied with the exercise

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<sup>15</sup> See Section 5.2.

of joint management. It is this dissatisfaction, on the Community's part, which resulted in its proposals for change during the Mid-Term Review.<sup>16</sup> Those proposals focused on the procedures governing financial and technical cooperation and, specifically, control of the monitoring and evaluation processes.

The Community identified several causes of delays and obstacles in the implementation of programmes and projects.<sup>17</sup> In 1991, the two sides had agreed to undertake a study of the obstacles to implementation of Lomé programmes.<sup>18</sup> The conclusions of the study were considered and the ACP Group was keen to follow its recommendations. However, the EU has been more reluctant to do so. The latter's proposals for change, in the Mid-Term Review, owe more to its own analysis.<sup>19</sup> As I show later, they also seek to respond to the criticisms expressed by the Court of Auditors in its reports on the workings of the EDF.<sup>20</sup> The majority of

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<sup>16</sup> See Section **4.3.2** above.

<sup>17</sup> See European Commission "Explanatory Memorandum" to the *Negotiating Directives for the Mid-Term Review of Certain Provisions of the Fourth Lomé Convention* (August, 1993), pp. 35-39.

<sup>18</sup> This Joint Study on the Implementation Procedures was the "post-Fiji" study. See *Report and Resolutions of the ACP-EEC Development Finance Cooperation Committee* (ACP-CEE 2130/1/93 REV 1, May 1993), pp. 40-68.

<sup>19</sup> See Sections **5.5.1** and **5.5.2** below.

<sup>20</sup> The Court of Auditors criticised several areas of operation of the Convention. See, for example, Section **5.4.3** for its views on Trade Promotion; Section **5.5.2** for its conclusions on various programmes in the ACP states; and Section **5.5.3** for some criticisms of the Commission services.

the EU's proposals were not accepted but their gist was to seek a reduction in the joint management which characterises the current system.

### **5.1.2 ACP**

Given the distinction which has been drawn between the ACP Group and its Secretariat, I will initially concentrate on the latter. It is the body whose operational capacity is directly related to the operations of the Convention. I must digress here to return to an earlier argument which I had advanced on the role of the Secretariat. My contention was, and is, that the ACP states were unwilling or unlikely to entrust, to the ACP Secretariat, issues which were sensitive domestically.<sup>21</sup> Their unwillingness stemmed from their belief that the Secretariat lacked both standing and experience in handling such matters. In elaboration of the point, I had cited the issues of debt, investment and adjustment.

The ACP distinction between global and Convention-specific issues appears, at first sight, to offer an alternative explanation. All three areas cited are global in nature. In this distinction, the Secretariat is unlikely to be offered a role to play in global issues because the true consideration of such issues lies beyond the Lomé relationship. On reflection, however, the two explanations are complementary rather than conflicting. They both suggest that the perception of the ACP states is that discussions on such issues in Brussels will have only

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<sup>21</sup> See Sections **3.4.2** on External Credibility and **3.4.3** on Coordination.



a marginal effect on the debates and outcomes in the MFIs. It is, therefore, not worthwhile devoting resources to an insignificant exercise in Brussels.

Having laid the apparent discrepancy to rest, I will return to the impact, on the operational capacity of the Secretariat, of the distinction between global and Convention-specific issues. The first effect has been on its physical capacity, in the form of manpower, to handle the two sets of issues. The trend has been to deploy resources to respond to the more manageable, Convention-specific areas. In the trade sector, the ACP Secretariat has thus identified, and employed, experts to service several different matters: the Special Protocols; Customs; Stabex; Commodities; and general trade issues e.g., access. In the area of global issues, financial cooperation is handled by one permanent officer although the sector covers several different elements such as debt; investment; structural adjustment; and the manifold aspects of programming (monitoring, evaluation, etc). The first effect of the global/specific dichotomy is thus on the basic factor of recruitment although it does have an obvious effect on technical capacity.<sup>22</sup>

The second effect of the dichotomy is positive. The ACP Secretariat has acquired greater capability from the detailed coverage which it can offer on Convention-specific issues. In reflection of this, ACP states have made significant demands on the

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<sup>22</sup> I must, again, express my appreciation to the Deputy Secretary-General of the ACP, Carl Greenidge, for his insights on the effect of the distinction on the recruitment process.

Secretariat for analysis of trade issues, representation in consultations and negotiations with the Community, and advice on trade matters.<sup>23</sup> A third, less noticeable, effect has been a slight but marked increase in international outreach in Convention-specific areas. I have already drawn attention to the fact that the ACP suffers from low esteem in multilateral bodies.<sup>24</sup> Yet a comparison between its treatment in the MFIs and the GATT, or more recently the World Trade Organisation (WTO), is instructive.

In the MFIs, the ACP has no standing and, worse, no presence. The concerns and experiences of the Group are largely articulated through the EU. In GATT, the ACP had a more nuanced position. The enactment of each Lomé Convention has demanded a request for derogation from GATT principles. The ACP has enjoyed a vicarious representation, on that issue, in the form of the EU's defense of the joint relationship. More importantly, over time, the ACP Group had forged a working arrangement with the representatives of ACP states at the GATT. There is a formal consultation process currently in effect. A designated representative of an ACP state, at the GATT, is entrusted with the coordination of a common position in Geneva. It is no coincidence that the issues, covered in the GATT and

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<sup>23</sup> Over the years, there have been several such demands for assistance. The concerns have included aflatoxin in groundnuts from West Africa; derogations for tuna from Mauritius and Fiji; and barriers against the export of green beans from Kenya.

<sup>24</sup> See Section **3.4.1** for a discussion of Group Presence and External Prestige.

the WTO,<sup>25</sup> are trade-related and thus in line with greater ACP capability in Convention-specific issues.

## 5.2 GROUP RESPONSIBILITIES

I had earlier alluded to ACP concerns about the limitations on the contribution of EU technical cooperation to ACP operational capacity. In particular, the ACP was concerned about the limited use of ACP nationals as consultants and technical experts. The ACP sought to meet those concerns by drawing up an ACP roster of technical consultants. The exercise was begun in 1989 with two principal objectives in view. The first was to build a list of ACP nationals as a database. It would be a pool from which the Community could identify a reliable set of consultants to meet the needs of specific Lomé programmes and projects. This objective met the stated intention, in the Convention, to create more national involvement in programme management and to achieve a greater transfer of skills.<sup>26</sup>

Secondly, the roster was an attempt to bolster the ACP's own capabilities. It was suggested that the scheme, if based on the model of the Commonwealth Fund for Technical Cooperation (CFTC), would respond to the apparent ACP need for technical expertise in various sectors. With its roster, the ACP Secretariat would serve as the coordinator of a technical cooperation

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<sup>25</sup> The most recent example of ACP involvement in trade matters, at the WTO, has been on the complaint brought by the United States and Latin American states against the regime, under the Lomé Convention, governing exports of ACP bananas to the Community.

<sup>26</sup> Article 275 of the Fourth ACP-EEC Convention.

scheme among its members. The scheme would enhance the collective technical capacity of the Group and help meet the domestic needs of its member states.

The record of achievement on the roster project is indicative of an ACP failure to make use of its own potential. As late as mid-1995, some six years later, the roster had not been implemented as a project. The failure to advance with the project might well be a function of the limited resources possessed by the ACP Division responsible for financial and technical cooperation. It is more likely that the ACP's inability to achieve discernible progress is indicative of a greater malaise. The failure to achieve something which is so much in the ACP's own interest says more about its lack of initiative than it does about the limitations of the Convention.

As pointed out earlier, the Group has developed several extensive programmes on intra-ACP cooperation<sup>27</sup> but has also failed to build on its good professions. The two examples of intra-ACP cooperation and the roster of consultants indicate that the responsibility for failure cannot be readily evaded by the ACP Group. It cannot merely point to the inadequacy of the Community's efforts to contribute to the generation of operational capacity. It must also acknowledge its own contribution in failing to utilise existing possibilities to strengthen its capacity.

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<sup>27</sup> See the treatment of Projection & Association in Section **3.4.1**. The ACP Group has formulated three such programmes in intra-ACP cooperation: the Suva (Fiji), Harare (Zimbabwe) and Kingston (Jamaica) programmes, named after the cities in which the meetings were held.

The EU has made some efforts to respond to perceived areas of weakness in ACP operational capacity. Those efforts could be divided into three groups. The first set conformed to the standard technical assistance models, providing external support to ACP recipients to help meet an identified need. The second set was a deliberate attempt at capacity-building by supporting and strengthening existing technical skills. The third involved the creation of a national unit to which certain tasks, required under the Convention, could be transferred. What was unique about each set of efforts was that they were not project or programme based but emanated from isolated Community initiatives. They were presumably chosen in the interests of greater effectiveness of Lomé assistance.

The technical assistance which the Community offered to Suriname is an example of the first type, the traditional form of technical assistance. Suriname had considered negotiating an adjustment programme with the International Monetary Fund but lacked the technical skills to formulate and pursue the programme. The Commission assumed responsibility for the task and helped draw up the programme. The EU initiative had two effects. First, it bought Suriname time in which to acquire the necessary skills. Secondly, by acting as designer and executor of the programme, the Community served as a positive intermediary in the adjustment process. The experiment was later suspended as Suriname appears to have reversed its decision to pursue the programme.<sup>28</sup> The

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<sup>28</sup> *European Union and Structural Adjustment* (Eurodad Briefing Paper, May 1994).

emphasis here is not on the success or failure of the assistance. Rather, it is on the fact that it was provided at all and on the motivation behind the effort.

The support which the EU has provided to the Southern African Development Community (SADC)<sup>29</sup> is illustrative of the second effort, aimed at overcoming ACP deficiencies in operational capacity. Support was provided to the traditional regional programme, focusing on sectors such as transport and communication, food security and natural resources. The EU also participated actively in the enhancement of regional economic integration and trade facilitation.<sup>30</sup> It has provided technical assistance and undertaken some of the analyses required for trade growth and the promotion of integration.

One example of its support was the development of a statistical system by the Statistical Office of the Community. The system was designed to transfer data from the national to a regional database in order to provide reliable trade and economic statistics.<sup>31</sup> It was combined with several efforts to develop training and educational resources specifically aimed at furthering the integration process. The Community's contributions to SADC thus represent a conscious attempt to build institutional capacities supportive

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<sup>29</sup> SADC evolved from the earlier body, the Southern African Development Cooperation Conference (SADCC).

<sup>30</sup> See European Commission, *EU-ACP Cooperation in 1994*, op. cit., p. 20.

<sup>31</sup> Europe Information, *Southern Africa and the European Community* (September, 1990), p. 19.

of integration in the region.

The third form of EU contribution is exemplified by the creation of a regional implementation unit (RIU) in the Caribbean. The accession of Haiti and the Dominican Republic to Lomé IV meant that the previous method of coordinating regional programming would prove awkward. It had been coordinated through the Caribbean Forum, with the CARICOM Secretariat as the lead agency. Neither of the new members belonged to the regional body, CARICOM.<sup>32</sup> The EU and the Commission had indicated that they wished to encourage a sustainable movement towards democracy in Haiti. As part of their efforts, they would place an emphasis on strengthening relations between the two neighbouring states.<sup>33</sup> This emphasis required a change in the existing regional coordination to permit greater involvement of the two non-CARICOM states.

Cariforum was established as the body entrusted with the coordination of the regional programme but the Community insisted on it being established as a

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<sup>32</sup> Suriname was not a member of the regional body either. However, Suriname had enjoyed a longer association with the rest of the Caribbean, having been a participant in Lomé from the inception. Suriname also enjoyed observer status with CARICOM and served as a full member of the Caribbean Forum which met, under CARICOM, to deal with the regional programme of Lomé.

<sup>33</sup> Haiti and the Dominican Republic are neighbours, sharing one island. See Caribbean Forum (Cariforum) of ACP states, "Proposal for a Strategic Approach to the Programming of the Caribbean Regional Indicative Programme (CRIP) under the Second Financial Protocol of the Lomé Convention" (CP 95/05/04) (Paper submitted to the Fifth Meeting of Ministers of the Caribbean Forum of ACP states).

separate implementation unit. The unit was distinct from the CARICOM Secretariat although it was responsible to the CARICOM Secretary-General. Two further justifications were offered by the Community for the creation of a separate unit. It was an attempt to overcome the historical problems of tardy programme identification and formulation and a slow disbursement rate. Secondly, it reflected the need to ensure that the regional programme would not be subsumed in the routine workings of the integration movement.

The RIU has been extolled by the Commission as an example of a successful attempt to overcome programming difficulties.<sup>34</sup> The officials within the RIU, and thus its technical capacity, are drawn from the region. The RIU, therefore, represents a utilisation of national capacity. On the other hand, the RIU is financed by, and accountable to, the Commission for its effective functioning.

In all three forms outlined above, the Community's contributions stand out for their exercise of initiative in the area of institutional capacity. Nonetheless, it remains difficult to determine on what criteria the Community bases its decisions to provide such assistance. The uncertainty helps create an image

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<sup>34</sup> Interview with Commission officials in the Caribbean Division, DG VIII. While Cariforum is an abbreviation of Caribbean Forum, it is necessary to note an important difference. The earlier Caribbean Forum was operated under the auspices of CARICOM, with Suriname participating for the purpose of coordinating the regional programme of Lomé. Cariforum was a separate unit, set up by the Commission but outside the CARICOM services. It did report to the Secretary-General of CARICOM but it served, in essence, as the Secretariat of all the regional states on the regional programme.



of an approach which is selective in nature.

### **5.3 INTERNAL ARRANGEMENTS**

Within the Convention, there are institutional arrangements which have been devoted, *inter alia*, to the promotion of ACP capacity in three important sectors: industrial development; agriculture and trade. The fourth sector of importance, financial and technical cooperation, will only be introduced in this section. It relates most to the day-to-day operations of the Convention and its analysis is linked to the issue of management which is given separate treatment. In the first two cases, there are organisations intended to achieve the stated objectives viz., the Centre for the Development of Industry (CDI)<sup>35</sup> and the Technical Centre for Agriculture and Rural Cooperation (CTA).

#### **5.3.1 Industrial Cooperation**

It has been the common assessment that industrial cooperation was, from the outset, an area to which the two sides attached widely different importance.<sup>36</sup> From

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<sup>35</sup> Originally titled the Centre for Industrial Development, it was renamed the Centre for the Development of Industry in 1983.

<sup>36</sup> See John Ravenhill, *Collective Clientelism: The Lomé Conventions and North-South Relations* (New York: Columbia University Press, 1985), especially Chapter 3, for a description of the negotiations on industrial cooperation. A similar view is outlined by Marjorie Lister, *The European Community and the Developing World* (Aldershot, U.K.: Avebury, 1988), pp. 89-95.

an ACP perspective, it was critical to the task of economic development but the Community's commitment was lukewarm at best. In this latter line of thought, the industrial cooperation chapter in the Convention was almost devoid of specific pledges and mechanisms through which the aspirations might be realised. In short, an assessment of the contribution of the Lomé Conventions to ACP industrial cooperation has to recognise that industrial development of the ACP was never truly envisaged by the Community.

One main reason might have been that such a primary task was beyond the scope of the Lomé relationship, given its limitations. Those limitations included the level of resources required, the low base from which the ACP states would have to move, the structural obstacles within the economies of those states and the role which the private sectors, in both the ACP and EC, would have to play.

There were also other impediments, to the promotion of industrial growth, built into the Convention. One major obstacle lay in the fact that, from its inception, the CDI suffered from a lack of funds. Its budgetary resources were 10 million ECUs for Lomé I (covering five years and 46 ACP states), 25 million for Lomé II and 60 million ECUs for Lomé IV (over five years and 70 states). The funding for industrial cooperation was to be drawn either from the general EDF or, in the case of industrial projects, from the European Investment Bank (EIB). In the latter case, participation would not be considered in projects where the capital investment was less than \$2

million.<sup>37</sup>

The CDI was also limited in its responsibilities. It did not have a responsibility for promoting investment through the provision of support to interested parties. The Centre, in one analyst's assessment, had nothing to offer potential investors other than assistance in the identification of projects.<sup>38</sup> The stringent budget and the restrictions on its role had a decisive and limiting effect on the CDI. In the words of its second Director, it "could not hope to act as agents for industrial development *in toto* in any given state so we have chosen priorities".<sup>39</sup> The 1984 Annual Report of the Centre pointed out that its work was almost like that of a missionary, dealing with industries which were "too small, too poor and too ill-fated to interest normal lending institutions."<sup>40</sup>

The initial role of the CDI was described as "reactive",<sup>41</sup> responding to requests emanating from the ACP states. The potential for such requests was quite great as the Centre had three main tasks:

- to gather and disseminate information on

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<sup>37</sup> Ravenhill, *Collective Clientelism...*, op. cit., p. 261.

<sup>38</sup> Ibid., p. 261.

<sup>39</sup> "Interview with Dr. Isaac Akinrele", *The Courier*, no. 104, July-August, 1987.

<sup>40</sup> Cited in "The Structure of the CDI, Its financing and its tasks", *The Courier*, no. 104, July-August, 1987, p. 15.

<sup>41</sup> "Interview with Dr. Isaac Akinrele", *The Courier*, op. cit.

conditions and opportunities for industrial cooperation;

- to have studies carried out on possibilities for industrial development and to organise and facilitate contacts between Community and ACP interests;

- to provide specific information and support services and help identify opportunities for industrial training and applied research.<sup>42</sup>

In the first of a series of measures intended to tailor its capacities to meet demand, the Centre, during Lomé II, moved away from the "reactive" policy. It shifted to a policy in which the Centre established country-by-country intervention programmes for ACP states. The programmes enabled the CDI to make selections from the various proposals made by the ACP states. The country profiles reduced the ACP's scope to make proposals as almost all proposals came from the private sector. By definition, the proposals were uncoordinated and sporadic in nature. The private sectors in most ACP states were not mobilised to deal with Lomé applications because they lacked familiarity with the operations of the Convention.

Over time, the focus within the CDI shifted further towards curtailing ACP demand for its services. The Centre emphasised policies which were governed by its own budgetary limitations. In Lomé IV, the CDI established working relationships with financial institutions in the Community. It sought to

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<sup>42</sup> See Article 36, First ACP-EEC Convention of Lomé.

use its own funds in the provision of seed money for projects undertaken in association with the institutions. In such projects, the Centre would concentrate on the execution of pre-feasibility studies and on-the-spot assessments. They were the areas in which the CDI might have acquired more expertise and in which it could serve as the agent of the financial institutions.

The final shift in the operating philosophy of the CDI took place during the negotiations for the Mid-Term Review. The eligibility criteria for assistance were altered to enable the CDI to focus on those ACP states which had included industrial development as a priority of their national indicative programmes.<sup>43</sup> It has been argued by the CDI and the Community that the shifts in operating procedures reflected attempts to ensure that the procedures were attuned to the CDI's financial and human resources. It was contended that they were intended to achieve efficiency and effectiveness of operation.

In respect of the CDI, a major criterion of operational capacity is how well did the institutional arrangement contribute to increased ACP capability in industrial development. When measured against that criterion, each of the operational shifts merits criticism. From a general perspective, and accepting the fact that the CDI's task was not to achieve total industrial development, the shifts resulted in a

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<sup>43</sup> See Article 89.2 of the Lomé IV Convention as revised by the agreement signed in Mauritius, *the Courier* No. 155, January-February 1996.

narrowing of the range of both ACP requests and petitioners. It is generally recognised that industrial cooperation has been one of the least fruitful aspects of Lomé cooperation. Therefore, any policy which resulted in further reducing the potential for assistance is open to criticism. The move from a "reactive" to a "profiling" policy was a negative shift. It might have been cost-efficient but it did limit the scope for capacity-building in the ACP.

Secondly, the move towards a closer association with European financial partners was also subject to criticism on two grounds. The first arose from an analysis of Lomé which contended that co-financing arrangements in EDF projects had led to various types of delays. Some of the delays were due to bureaucratic procedures when donors failed to agree. Others occurred when the Community's development philosophy could not be readily blended with that of the partner agency.<sup>44</sup> This was a concern which could not be easily ignored in the light of the CDI's limited financial resources. Under such constraints, the CDI's contribution to the association could only be minimal and secondary.

The second ground for criticism was derived from the type of projects which were to be assisted by the CDI. As the "too small and too poor" of the industrial sector, they were unlikely to meet easily the criteria of the financial bodies with which the CDI sought association. More likely, the association would serve

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<sup>44</sup> See Marjorie Lister, *European Community and the Developing World*, op. cit., pp. 146-147.

to pick off the more attractive of the ACP proposals and leave the "small and poor" rejected once more.

Finally, the most recent shift to an ordering of ACP states eligible for CDI assistance gives rise to further criticism. The shift is based on the premise that CDI assistance should concentrate on those ACP states which are prepared to make a financial contribution of their own resources. The policy is exclusionary and helps to restrict further possible assistance in a sector where all the ACP states need help.

The ACP Group is not without blame for the ineffectiveness of the sector. The Group had, from the outset, resisted proposals by the Community for a guarantee scheme to cover Community investors in the ACP.<sup>45</sup> The absence of the guarantee, while not the sole obstacle, did not encourage the levels of investment necessary for industrial development. In Lomé III, the ACP Group accepted investment guarantees but its initial objection had sent a strong negative message to European investors. The ACP's objection dated back to the early phase of the Convention in the mid-1970's. It reflected the zealous manner in which developing countries guarded control of their economic sectors against concessions to foreign investment. It also demonstrated a failure on the part of the ACP states to recognise the changed economic environment of the 1980s. They failed to grasp that concessions

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<sup>45</sup> It should be noted that John Ravenhill contended that the ACP objection was based as much on the substance as on the context and the tone of the EEC proposals when they were made in negotiations. See *Collective Clientelism...*, op. cit., pp. 270-271.

were necessary to attract foreign investment. The ACP's attitude is an early example of its inability to adapt to changed conditions in the relationship.<sup>46</sup>

In summary, the measures taken by the CDI have all resulted in a reduction of its contribution to ACP operational capacity in the sector of small and medium-sized industry. In the trade-off between efficiency (use of limited resources) and effectiveness (operational impact), the CDI opted for the former, subordinating its parallel responsibility to meet the needs of the ACP. It has been the operational philosophy of the Centre which has prevailed over its mission.

### **5.3.2 Agricultural Cooperation**

It is rather difficult to measure the developmental impact which the Lomé provisions on agricultural cooperation had on the ACP states. In the early days of the relationship, agricultural development was given a high degree of priority in project consideration. That emphasis was particularly noticeable in the areas of food strategies and rural development. A ready assessment of the contribution made by the sector to the generation of ACP capacity is precluded by the range of projects and the diversity of ACP states. The task is made more difficult by the lack of a meaningful evaluation of such projects. As in the industrial sector, a joint body, the Technical Centre for Agriculture and Rural

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<sup>46</sup> The ACP failure to adapt to changed conditions is a topic to which I return later in the Chapter. See Section **5.6** for Adaptability to Changed Conditions.



Cooperation (CTA)<sup>47</sup> was established in the field of agricultural cooperation. It was created to play a role in promoting agricultural development in the ACP. It is less difficult to measure the contribution of the CTA than it is to measure that of agricultural cooperation in general.

The CTA operates on an even lower resource base than does the CDI but its mission is also of a more modest nature. The operating budget, in 1992, was just 5 million ECUs or around 25 million for all of Lomé IV. Its role has been defined as helping "to provide the intellectual input in the transfer of technology and find the scientific and technical information which agricultural projects or individuals or research specialists or target-groups need to develop their agriculture."<sup>48</sup> The Centre is not involved in formulating projects. Rather, it focuses on the promotion of research and on helping scientists to obtain access to information. It also helps to establish programmes to facilitate the interchange of ACP researchers and to encourage regional cooperation.

The CTA has recognised its limitations, both in its role and resources. In appreciation of these constraints, it has tried to build working arrangements with national bodies in ACP states. It has also opened regional offices, e.g., in the Pacific, using regional organisations as agents. The CTA's work has been well appreciated within certain

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<sup>47</sup> The acronym is derived from the French name for the Centre.

<sup>48</sup> "Interview with Daniel Assoumou Mba, Head of the CTA, *The Courier*, no. 133, May-June, 1992.

parameters - those of providing technical information and assisting in the transfer of technology - if it is to be judged by the requests from ACP sources for its assistance. In 1991 alone, the CTA responded to over 36,000 such requests.<sup>49</sup>

The ACP Group, nonetheless, has seen the need to increase the limited role of the CTA. The Group has consistently maintained that the CTA should be strengthened to permit it to play a more active role in other areas of agricultural development. These areas include the pressing problems of desertification, water-use and the control and elimination of animal and plant-diseases.<sup>50</sup> In spite of this continuing concern, it could be said that the CTA has made a contribution, albeit limited, to building ACP capacity within its restricted remit of information dissemination and technology transfer.

### **5.3.3 Trade Regime**

The stated objective of the trade regime is to promote and diversify trade between the ACP states and the EC, and among the ACP states, through the promotion of regional cooperation.<sup>51</sup> This goal is linked to enhancing ACP export capacity, both at the intra-ACP level and between the Group and the EC, as well as to the diversification of ACP export trade.

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<sup>49</sup> Ibid., p.4.

<sup>50</sup> ACP Group, *Memorandum on the Position of the ACP Group in its Relations with the European Economic Commission* (ACP/0023/83 Neg. Rev.4), pp. 102-103.

<sup>51</sup> European Commission, *EU-ACP Cooperation in 1994*, op. cit., pp. 52-53.

There are thus two areas which can be usefully examined to see how well the relationship has fared in helping the ACP meet these twin objectives. They are the overall results in ACP export trade and the efforts made in export promotion.

The results of ACP trade have been generally poor, with the trend being one of decline. In global terms, the ACP Group has never been a significant force and accounted for 2.98% of world trade in 1970.<sup>52</sup> The share had increased, by 1975, to 3.16% but has since fallen to 1.36% in 1992. In comparison with all developing countries, the ACP has also lost ground. In exports of all developing countries in world trade, the ACP's share fell from 16.24% in 1970 to only 5.84% in 1992. Over the same period, the share of all developing countries was rising from 18.3% in 1970 to 22.67% in 1992.

In the case of exports to the Community, ACP trade exhibited similar declining trends. Exports from the ACP fell from 8.92% in 1970 to slightly more than 3% in 1993, in spite of the enlargement of both the ACP and the Community during that period. The ACP's share of the EC's imports from all developing countries also declined, but at a much slower rate, from 37.4% in 1970 to just under 30% in 1993.

The level of processed and manufactured goods in

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<sup>52</sup> I rely on the Commission publication, *EU-ACP Cooperation in 1994*, op. cit., pp. 52-53 for the trade statistics. As the ACP Group was not constituted in 1970, I have assumed that the figures for that year represented a totalling of the trade of the AASM under Yaoundé and the associables which collectively became the ACP.

ACP export trade to the EC serves as an indicator of export diversification. The level has been rising but at a modest and irregular rate. It represented 20% of ACP exports in 1976, fell to 16% in 1980 and 15% in 1985 before rising again to 27% in 1992. Only Mauritius in the ACP Group has shown a significant degree of diversification in its exports, increasing the share of processed and manufactured goods in its exports from 16.4% in 1976 to 65% in 1992. Some other ACP states have also been able to diversify their exports: Kenya, Zimbabwe (and Mauritius) into textiles; Côte d'Ivoire, Seychelles (and Mauritius) into canned tuna; Côte d'Ivoire and Nigeria into processed rubber. However, these are isolated examples which have made only a minor impact on the general composition of ACP exports.

The overall trends of decline have been noted by the ACP as a cause for deepening concern. The Group registered its disquiet prior to the negotiations for Lomé IV. It stated that the trade regime had not resulted in any increase in the ACP's share of markets in the developed countries and in a marked decline in its share of the EC's.<sup>53</sup> What the figures convey is a failure of the trade regime to help build ACP capacity in either export volumes or in diversification of the trade. The prevailing system of Lomé trade preferences has not managed to benefit the ACP Group because the Group has seen its share of the EC market decline relative to all other groups of developing countries.<sup>54</sup>

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<sup>53</sup> ACP Group, *Memorandum on ACP Guidelines for the Negotiations for a Fourth ACP/EEC Convention* (ACP/00/012/88 NEG. Rev. 2), p. 121.

<sup>54</sup> European Commission, *EU-ACP Cooperation in 1994*, op. cit., p. 55.

It should be noted that the decline in ACP export trade could not be attributed solely to the Lomé trade regime. There have been two main explanations for the failure. The first was that of the Community which ascribed the blame primarily to the failings of the ACP states:

"Trade preferences are a necessary condition but never sufficient. They can only help a country's export capacities if they are accompanied by adequate internal policies and an entrepreneurial spirit. Yet most ACP countries have not been able to adopt monetary and fiscal policies which could create a favourable economic environment in which, for example, the real exchange rates are maintained at levels that allow for competitiveness in the international markets."<sup>55</sup>

The above conclusion identified several areas in which the ACP states could improve their trade capacity by helping themselves: creating a climate suitable for investment and enterprise (i.e., the private sector); monetary and fiscal reform; and greater competitiveness.

Yet it is precisely in the area of fiscal and monetary policy that the Conventions have been notably silent. Until Lomé IV, there had been no provision which covered the sector. In fairness, neither side had devoted much attention to such questions during negotiations for the Convention. The Community viewed fiscal and monetary issues as falling clearly within the ambit of domestic ACP policy. The implementation of provisions to address them would unduly burden Commission resources and stray beyond the lines of demarcation of ACP sovereignty. Only recently has it been possible to address these issues. The opportunity

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<sup>55</sup> Ibid., p. 55.

has arisen with the advent of structural adjustment support programmes in Lomé IV and, more recently, with overt multiple conditionality.

The ACP Group was, if anything, more at fault in dealing with such issues. It had discussed the creation of a trade financing facility or trade investment bank as part of its intra-ACP cooperation as early as Lomé II. However, the Group had made little progress beyond the commissioning of a study and periodic expressions of intent. The project had even been raised in ACP preparations for the negotiations for Lomé IV<sup>56</sup> but it remained an unrealised intra-ACP ambition.

On the creation of a propitious environment for investment, the ACP failed to recognise the importance of encouraging investment as a vehicle for improving export capacity. That fact was partly demonstrated by its failure to advance with its consideration of the trade and investment bank. Its early opposition to the provision of investment guarantees for Community investors was more indicative of its lack of commitment to the idea. Lomé III did accord national treatment to Community investors in ACP states, ensuring fair treatment, stability of initial conditions of investment and more transparent investment codes. That was a more encouraging development. However, it led to little discernible improvement in the levels of EC investment as the early damage had already been done. The ACP, basing itself on studies completed under the provisions of

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<sup>56</sup> ACP Group, *Memorandum on ACP Guidelines ...*, op. cit., pp. 125-126.

Lomé III, called for the establishment of an investment support facility in Lomé IV.<sup>57</sup> The call was rejected by the Community which refused to consider the formation of more institutions under the Convention.

The second explanation for the decline in ACP export trade was more comprehensive. It blamed the trend on the design of the preferential scheme. It implicated both the EC and inherent policy problems in ACP states.<sup>58</sup> That explanation came closer to the ACP's own judgement of the operation of the preferential scheme. One contention of the explanation was that Community policy had adversely affected ACP interests. The overall value of ACP preferences had deteriorated over time because the Community had reduced its most favoured nation (MFN) tariffs on primary products as a result of trade liberalisation. The criticism of the design of the scheme lay in the fact that Lomé extended no new preferences for the more important exports of the ACP such as copper, phosphate, cotton and crude oil. Lomé preferences only applied to an average of 35 to 45% of ACP exports.<sup>59</sup>

In the area of manufactures, the criticism was that the ACP states had lost a substantial part of the

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<sup>57</sup> Ibid., p. 154.

<sup>58</sup> This explanation is typified by Grilli's study of the Community's development programme. See Enzo Grilli, *The European Community and the Developing Countries* op. cit., pp. 161-174. This study offers an extensive assessment of non-reciprocal trade preferences under Lomé in terms of their extent and effects.

<sup>59</sup> Ibid., p. 166.

value of Lomé preferences. The loss was a consequence of GATT-inspired trade liberalisation and the Community's extension of the generalised system of preferences (GSP) to other developing countries in 1971. A very large proportion of manufactures were entitled to duty-free entry into the EC under GSP or MFN treatment, once they satisfied Community rules of origin. Some estimates place the figure at more than 90%.<sup>60</sup> The ACP states were thus vulnerable to a market threat from other developing countries and, given the ACP's low manufacturing base, were unlikely to be effective competitors. The main exception to GSPs was textiles but the ACP gained little advantage in that sector. The threatened use of Community safeguards ensured that "hyper-sensitive" ACP products, such as textiles, were subject to quotas. The design of the preference scheme had also failed to assist the ACP in the task of diversification.

This second explanation coincided with that of the Community on an important point. They both noted that the global constraints were exacerbated by the internal problems in ACP states which hindered their competitiveness in the EC market. They both cited overvalued exchange rates and disincentives to investment as examples of those problems. The second explanation also stressed the negative effects of inward-looking policies such as export taxes on traditional products, controls on producer prices and high domestic protection of manufacturing.

The conclusions are readily apparent, whichever explanation or combination of the two is used. The

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<sup>60</sup> Ibid., p. 166.



system of non-reciprocal preferences, under Lomé, did not result in a discernible increase in either export capacity or export diversification in the ACP states. As such, the contribution of the trade regime to ACP operational capacity was negligible.

#### **5.3.4 Trade Promotion**

The other element of the trade regime, which I examine, is that of trade promotion. In Lomé II, provision was made for financial and technical cooperation to be offered to the ACP in a number of areas relating to trade promotion.<sup>61</sup> The measures covered a wide range of activities including the training of officials; product research and quality control; development of infrastructure (e.g., transport and storage) in support of ACP exports; and the participation of ACP states in trade fairs and exhibitions. These measures were part of a clear effort to generate ACP capacity in activities critical to export trade. However, trade promotion has remained an area in which there has been a marked lack of progress.

The ACP Group has long recognised the constraints hampering the effective utilisation of the measures. It candidly admitted that many of those constraints emanated from deficiencies within the ACP states themselves.<sup>62</sup> The Group identified several shortcomings: the lack of appropriate trade channels

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<sup>61</sup> Article 21 of the Second ACP-EEC Convention of Lomé.

<sup>62</sup> ACP Group, *Memorandum on ACP Guidelines...*, op. cit., p. 132.

for marketing agricultural and mineral raw materials; the critical absence of physical infrastructure, transport and communication facilities; and limited expertise in marketing both semi-processed and processed agricultural raw materials.

Those constraints resulted in an ACP failure to profit from trade promotion measures and to discover and diversify markets for its products. The solution, proposed by the ACP in the negotiations for Lomé IV, was the creation of a Centre for the Development of Trade and Services. It would provide information on products and markets, product development and training in marketing and export promotion. Allied to the proposal was a call for a programme, with fixed targets and deadlines, of processing, marketing, distribution and transport (PMDT) in primary commodities, the mainstay of ACP exports.

Neither proposal was accepted by the Community. The ACP was aware that the proposal for the Trade Centre was subject to a rationalisation of its proposed role with that of the CDI. Moreover, the Community had a basic objection to the establishment of additional institutions in the Convention. In the case of PMDT, the Community was agreeable to the principle but was unwilling to commit itself to the programme. Its fear was that the agreement on targets might place it under an obligation to accept some quantum of the processed exports from the ACP.

However, the ACP Group held a rather disparaging view of the Community's overall commitment to trade promotion. It considered that its failure to benefit from the provisions was not wholly due to its own

shortcomings as a group of states. The ACP stressed that the most beneficial aspects of trade promotion were the very areas in which its states had found it most difficult to attract Lomé funding. It asserted that the Community was very reluctant to provide assistance for the important areas of market research, product development and infrastructure support. The exception to this reluctance was in the area of participation in trade fairs and exhibitions, for which activity there seemed to be no difficulty in obtaining funding. This exception had given rise to an ACP charge that trade promotion, for the EC, meant little more than invitations to participate in trade exhibitions.

There has been little in-depth study of the operation of the trade promotion measures. A study, done by the Community's Court of Auditors on the first two Conventions,<sup>63</sup> helps to vindicate the ACP's criticism. It does so both in its figures and its analysis. It is necessary to distinguish briefly between two sets of funds available for trade promotion. The first consists of funds set aside in the NIP of individual ACP states. The NIP is drawn up at the discretion of the state, with trade promotion as only one of several priorities from which it can choose. As such, an NIP allocation to trade promotion cannot be properly ascribed to the Convention and its generation of capacity in this sphere. The second set of funding comes from the regional cooperation allocation under Lomé. I will focus on this second allocation because it is managed by the Commission as

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<sup>63</sup> Court of Auditors, Annual Report for the Financial Year 1986, (OJ 87/C336).

programmed funds for trade promotion.

The figures in the study reveal that, during Lomé I, 9310 million ECUs, out of a total commitment of 12667 million for trade promotion under regional cooperation, were allocated to fairs and exhibitions. The allocation represented 73.5% of the total commitment.<sup>64</sup> The actual payments for participation in fairs and exhibitions, 9309 million ECUs out of 11346 million, represented a staggering 82% of all disbursements for trade promotion.

In Lomé II, the figures were less startling: 37% of actual disbursements, 5576 million ECUs out of 15059 million, was given for participation in fairs and exhibitions. This appears to be a more equitable distribution but it needs to be put in its proper context. New responsibilities had been added to the trade promotion measures in Lomé II. One such area, trade information, alone accounted for almost 13% of disbursements. Additionally, the second largest disbursement (34%) was for a comprehensive category of several areas. They included technical assistance, short-term consultancies, trade missions, market surveys and reports, and the provision of material equipment. When allowance is made for the range and scale of these other promotion areas, it is clear that trade fairs and exhibitions remained the primary focus of trade promotion funding.

In its conclusion, the Court of Auditors acknowledged that some of the failings in the

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<sup>64</sup> Ibid., Tables 4-7, pp. 138-139. I rely on the Report of the Court of Auditors for the figures.

operation of the trade promotion provisions were attributable to the ACP countries. Nonetheless, it placed a greater emphasis on the deficiencies in the Community's approach which contributed to those failings. The Report stated that "the different treatment accorded to fairs and exhibitions, on the one hand, and other types of measures, on the other, makes an integrated approach to trade promotion programmes impossible."<sup>65</sup> It went on to list several steps which were essential for the success of ACP participation in fairs and exhibitions but for which the Commission had failed to provide the requisite assistance. They included careful selection of fairs and exhibitions; design and construction of stands; and an adequate follow-up to participation.

The contribution of the trade promotion provisions to ACP capacity in the trade sector was minimal, from the perspectives of both the ACP and the Court of Auditors of the Community. Any potential contribution was undermined by the manner in which support for trade promotion was skewed towards participation in fairs and exhibitions. The fact that even that bias was not systematically pursued by the Commission further reduced the possibility of a positive contribution.

### **5.3.5 Financial and Technical Cooperation**

The most important sector of the Convention is that of financial and technical cooperation which includes the management and implementation of its various projects and programmes. Lomé has attracted

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<sup>65</sup> Ibid., p. 140.

much attention for its novel feature of joint evaluation whereby the donor and the recipient states are jointly responsible for the appraisal of projects and programmes. In other cases of development aid, it is the donor which carries out the evaluation.

One measurement of operational capacity is to determine what use has been made of the potential which joint evaluation offers and how has it contributed to ACP institutional capacity. The difficulty in measuring such capacity, in the absence of directly applicable studies, lies in deciding which criteria to use as a means of analysis. I have chosen two broad dimensions: the nature of the tasks arising from the operation of the Conventions and the role of the agents responsible for the execution of these tasks.

#### **5.4 TASKS OF MANAGEMENT**

The tasks of managing the Lomé Conventions have varied over time as the nature of the Convention has evolved. The Convention has changed in two directions. First, as conditionality emerged, the Convention has assumed a more rigorous shape. The intent is to ensure that projects and programmes satisfy the identified sectoral priorities of the recipient ACP states. A concomitant objective has been to ensure that they accord more with the Community's own preferences on policy guidelines and with its desire for consistency

in all forms of Community aid.<sup>66</sup> The second change was a trend away from the multi-sectoral focus of the first two Conventions on areas such as agro-industrial projects. The new trend was towards a more sectoral approach. The emphasis in Lomé III was on rural development. Lomé IV saw the emergence of horizontal themes - poverty alleviation, women in development, promotion of the private sector - which cut across sectors.

Each of the two changes had an impact on the tasks demanded of the parties to Lomé and on their respective operational capacity. The impact of the first, the increase in rigour, has been most visible in the operation of Stabex and on the project cycle. Recipients of Stabex transfers had long been afforded considerable latitude as to their use. With the implementation of Lomé IV, the transfer of Stabex resources were made subject to agreement on, and compliance with, the framework of mutual obligations (FMO). The objective of the FMOs, as the Commission stated, was to tie in with the sectoral policies of the NIP of the recipient and, where applicable, with structural adjustment undertakings.<sup>67</sup>

The FMOs were also indicative of a wider trend of linkage between projects and their sectoral policy context. That linkage was laid out in both the NIPs

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<sup>66</sup> The Commission has noted that project identification, especially since Lomé IV, could be complicated in cases where the EC's thematic or sectoral preferences did not correspond to an ACP Government's priorities. See European Commission, *Financial and Technical Cooperation under the Lomé Conventions in 1993: An Overview* (VIII/196/94), p. 33.

<sup>67</sup> Ibid., p. 25.

and the financing agreements between the Commission and the ACP partner. The Commission referred to this trend as a "stiffening" of Community's demands in terms of sectoral policy.<sup>68</sup> They also considered it to be a coordination of the process begun with policy dialogue under Lomé III and continued with structural adjustment aid under Lomé IV.

Linked to this "sectoral conditionality"<sup>69</sup> is the role which the emphasis on increased rigour played in the project cycle. The Commission's reports are replete with examples of projects and programmes being delayed or even halted by the need to satisfy both sectoral and macroeconomic objectives.<sup>70</sup> A failure by an ACP state to do so was an obvious obstacle to access to structural adjustment support (SAS). It was also pivotal in the granting of aid for traditional projects and programmes. The reports identify, as an obstacle, a failure to agree major policy measures e.g., land reform, fiscal adjustment, liberalisation of key prices or clarification of an institutional or regulatory arrangement. The Commission cited the example of Madagascar as an ACP state which suffered from sectoral conditionality. It had a road maintenance programme for 75 million ECUs suspended because it failed to enact a required reform of oil taxation and to put in place an acceptable road maintenance policy.<sup>71</sup>

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<sup>68</sup> Ibid., p. 27.

<sup>69</sup> Ibid., p. 28. The term is the Commission's.

<sup>70</sup> European Commission, *EDF Operations in 1994 - Financial and Technical Cooperation under the Lomé Convention* (VIII/128/95), p. 28.

<sup>71</sup> Ibid., p. 28.



The two changes in direction - increase in policy rigour or "sectoral conditionality" and the trend towards sectoral and "horizontal thematic" emphases - have altered the capacity needs of the two parties in several ways. They have affected capacity needs in technical terms; in terms of human and material resources; and in terms of operational control i.e., who is responsible for evaluation and other procedural steps.

## **5.5           ROLE OF AGENTS**

The changing nature of the capacity needs had a clear impact on the agents charged with meeting the new demands. In the case of Lomé, there were three principal agents: the ACP state in the form of the National Authorising Officer (NAO) and the two representatives of the Community, the Commission nominally through the Chief Authorising Officer (CAO), and the Delegate of the Commission resident in the ACP state. I look at each of these in turn to determine what evidence can be found of a demonstrated capacity, or lack thereof, to meet operational tasks.

### **5.5.1       ACP: National Authorising Officer**

The ACP has not carried out a detailed evaluation of the functioning of the office of the NAO. In order to draw my conclusions as to the Group's view, I have had to glean information from various documents which do not directly address the role of the NAO. Two main conclusions emerged from my siftings. The ACP Group had taken note of the changes in Community assistance, with its emphasis on decentralised cooperation and promotion of the private sector. It was conscious of

the need not to obstruct those changes with state bureaucratic intervention.

The first conclusion was that the ACP Group was determined that, while the changes were to be encouraged, their terms of operation should not call into question the underlying inter-governmental nature of Lomé. Thus, the Group insisted that, in the case of agents of decentralised cooperation, the ACP states had the responsibility to coordinate their programmes to ensure that the latter "dovetailed" with national priorities.<sup>72</sup> Similarly, in the case of the promotion of the private sector, the ACP stated that the new arrangements (for the private sector) should ensure that the ACP states could supervise the activities of the sector. They promised to do so with the minimum possible scope for bureaucratic disruption by the public sector.<sup>73</sup>

The ACP was supportive of the new trends but, rather than radical revision, it preferred strengthening of the existing, ineffectual provisions in Lomé IV. There are two impressions conveyed by the ACP position and they are not wholly complementary. The first was that the ACP programme management and administration were equal to the additional tasks of monitoring of enhanced programmes, now involving the private sector and decentralised cooperation. At the same time, the ACP stressed, particularly in the case of decentralised cooperation, that the implementation

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<sup>72</sup> ACP Group, *The Mid-Term Review of the Fourth Lomé Convention: An Explanatory Memorandum* (ACP/27/001/94 Rev.3), p. 34.

<sup>73</sup> *Ibid.*, p. 38.

and management of programmes should be carried out by the decentralised agent. The roles of the NAO and the Delegate, in such cases, should be limited to monitoring the projects. The ACP was signalling that it did not wish to increase unnecessarily the workload of the NAO. Simultaneously, it wished to maintain its inter-governmental oversight of the new trends and to avoid placing an extra burden on its management resources.

It is from the caveat of this second image that I draw my second conclusion about the ACP's assessment of the capacity of the NAO. The operational tasks facing the NAO amounted to an onerous burden on the human and material resources available to the office. It was a view which was shared by the Community. Consequently, the ACP's request for assistance for project and programme management met with the Community's approval in the Mid-Term Review<sup>74</sup> although, as I demonstrate shortly, not without some attempt at modification by the latter.

The post-Fiji study also concluded that the multi-component programmes under Lomé III would pose obvious management problems for the limited ACP human and material resources available for contract execution. It cited, as one example, the separate tasks involved in the management of a project. It listed the drawing up of service contracts for the feasibility study; the preparation of the project and tender dossiers; and the supervision of the execution of the project as well as of one or more contracts for

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<sup>74</sup> Article 224(i) of the Fourth ACP-EC Convention of Lomé as revised.

the execution of the project.<sup>75</sup> The ACP saw the request for project management assistance as merely increasing the resources available to the NAO. Conversely, the Community saw the need as indicative of a wider ACP inability to meet the demands of joint management.

The ACP Group was particularly concerned, as noted above,<sup>76</sup> that the award of EDF contracts reflected an increasing use of "rather expensive European technical assistance, contrary to Article 275 (c)"<sup>77</sup> at the expense of qualified ACP nationals.<sup>78</sup> The Group argued that one of its objectives was the promotion of sustainable growth which could be advanced greatly by the full participation of the ACP states in their projects and programmes. It was an objective, the Group contended, which was in full accord with the Community's new "logical framework and integrated approach" for project cycle management.<sup>79</sup> This criticism by the ACP Group represents a further admission by the ACP that its operational capacity has been limited. In this case, it was by the lack of opportunities available for its nationals.

While the ACP offered little evaluation of its

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<sup>75</sup> See "Joint Study on the Implementation Procedures", pp. 64-65 in *Report and Resolutions of the ACP-EEC Development Finance Cooperation Committee: Report to the ACP-EEC Council of Ministers* (ACP/CEE 2130/1/93 REV 1).

<sup>76</sup> See Section **5.1.1** above.

<sup>77</sup> The reference is to the Lomé IV Convention.

<sup>78</sup> ACP Group, *The Mid-Term Review of the Fourth Lomé Convention: An Explanatory Memorandum* (ACP/27/001/94 Rev.3), p. 39.

<sup>79</sup> *Ibid.*, p. 39.

own operational capacity, the Community had much more to say, in its studies, about the ACP's capabilities. The Community shared the ACP's concern about the inadequacy of the resources available to the NAO. The Court of Auditors was specifically charged with the evaluation of Community operations. As such, it only examined ACP issues as part of its study of the EDF and of selected aspects of Lomé. It thus never had to comment on ACP capacity, except in assessments of EDF operations as they related to Community bodies.<sup>80</sup> Nonetheless, many of those assessments related to Lomé operations and, consequently, did cover aspects of ACP capacity.

However, its analyses of the ACP were governed by an early appreciation which it had formed of the operations of the EDF. The Court stated that EDF operations assumed, erroneously, that ACP recipients were capable of both managing the projects with due professional competence and of financing the costs of management and upkeep. As this was often not the case, the Court concluded that EDF projects were in danger of rapid collapse.<sup>81</sup> That view of the ACP's lack of capacity constantly reappeared in Court Reports. In dealing with multi-annual training, the Court noted

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<sup>80</sup> The Court of Auditors reported on Community aid to 7 African countries (*OJ 82/C344*); on Projects and Mini-projects in 8 African and Pacific countries (*OJ 85/C326*); on Multi-annual Funding (*OJ 87/C336*); on Projects in 4 countries of Equatorial West Africa (*OJ 90/C313*); a Special Report on Import Programmes carried out under the Sixth EDF (*OJ 94/C97/02*) and on Proposals for the Effective Management of the EDF (*OJ 94/C327*).

<sup>81</sup> Court of Auditors, Annual Report for the Financial Year 1981 (*OJ 82/C344*) pp. 118-119.

"the lack of real planning by the ACP States of their own training activities."<sup>82</sup> A similar point was made in its treatment of import programmes. The Court noted that "providing technical assistance for National Authorizing Officers would seem to be a good way of ensuring that programmes are implemented."<sup>83</sup>

The Commission was even more explicit than the Court of Auditors. It believed that the exercise of managing the project cycle placed an intolerable burden on the ACP states. The Commission emphasised the human and material constraints facing the NAOS. It also highlighted a series of problems which, it claimed, were directly attributable to the role of the ACP states in project implementation and management.<sup>84</sup> They consisted of bureaucratic delays and a lack of local technical and administrative organisation and skills. The bureaucratic delays were the result of the presence of the NAOs which represented another decision-making layer on top of the supervisory Ministry. The lack of organisation and skills was such that it could not readily be overcome by the provision of technical assistance.

The Commission's position, on the provision of assistance for project/programme management, reflected its low estimation of the ACP's capacities. It

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<sup>82</sup> Court of Auditors, Annual Report for the Year 1986 (OJ 87/C336), p. 134.

<sup>83</sup> Court of Auditors, Special Report on Import Programmes..., op. cit., p. 30.

<sup>84</sup> European Commission, *Annex to the Explanatory Memorandum of Negotiating Directions for the Mid-Term Review* (unnumbered), pp. 7-9.

proposed that the duties of the office of the NAO be decentralised and delegated to a technical management unit responsible for implementation. The unit would be established at the request of the CAO (i.e., the Commission) and be run by an official appointed by the NAO, with staff seconded from the national administration. However, the Commission would identify and appoint technical assistance personnel whom the ACP state would be obliged to accept.<sup>85</sup>

There was an extreme divergence between the two positions on the role and capacity of the NAO. The ACP had sought increased technical resources for the NAO to help carry out the required tasks while the Commission wished to remove the tasks from the NAO altogether. In the end, the ACP won the debate but the Commission's proposal reflected its deep antipathy to the office of the NAO and its very low estimation of its capacity.

#### **5.5.2 Community: The Commission**

When the Commission proposed changes in the instruments and procedures of the Convention, it had two considerations in mind, its own services and those of the ACP. Its proposals were intended to "speed up and rationalize implementation by taking account of problems and situations" which had come to light in the day-to-day functioning of cooperation.<sup>86</sup> The Commission admitted that some of its own procedures

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<sup>85</sup> Ibid., pp. 9-11.

<sup>86</sup> European Commission, *Explanatory Memorandum to Negotiating Directives for the Mid-Term Review* (unnumbered), p. 35.

were ponderous and served as an obstacle to effective and rapid decision-making. It also conceded that its information and monitoring systems were not as efficient as they ought to be for the purpose of implementation.

However, the primary concern of the Commission was the structural difficulties faced by ACP administrations in fulfilling their responsibilities. It was to meet this last problem that the Commission sought reforms aimed at more rapid and streamlined procedures.<sup>87</sup> The Commission first sought the authority to make its own decisions on technical assistance. It stated that the authority was necessary for drawing up the contracts for services relating to the preparation, appraisal and evaluation of projects and programmes. The first effect of this proposal would have been to remove, from the ACP states, their existing control over proposed financing for activities. Under current provisions, no study or expert evaluation could be carried out by the Commission, except at the request of the ACP.

Secondly, the Commission had often been faced with the need to assume responsibilities of ACP national authorities in the preparation and appraisal phases of projects. The need arose on numerous occasions when the ACP states found it difficult to carry out those responsibilities. Accordingly, the Commission proposed that it should carry out the task of appraisal (thereby excluding the ACP) and be provided with the resources to fund any necessary studies without reference to the ACP. Third, the

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<sup>87</sup> Ibid., pp. 35-36.



Commission proposed that its services in Brussels be given explicit responsibility for preparing the financing proposal for projects and programmes. That was a task which had been previously assigned to the Commission Delegate. Finally, the implementation process would be made smoother by the establishment of technical management units, thus circumventing the over-concentration of control in the hands of the NAOs.

None of the above proposals was agreed in the negotiations for the Mid-Term Review but they, collectively and individually, revealed a great deal of the Commission's thinking on operational capacity. The post-Fiji study had pointed to the problems posed by some of the internal procedures of the Commission. The Court of Auditors had consistently criticised its information and monitoring systems.<sup>88</sup> Those indications of its own deficiencies did not much affect the Commission's assessments. It was clearly of the view that its operational capacity contributed to greater efficiency while the ACP's led to obstacles and delay. The ultimate intent of the proposals was to centralise a greater control of the project management, ostensibly in the name of increased efficiency and more speedy implementation.

The proposals had the additional effect of either ignoring or belittling the ACP's criticism of the Community's increasing monopolisation of technical

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<sup>88</sup> It is a criticism which occurs in more than one of the Reports of the Court of Auditors. See, for example, its Special Report on the Coordination of Community aid to Third Countries (OJ 84/C224/04) and Special Report on the Import Programmes..., op. cit.

assistance services. The ACP were not at all confident that the criteria used by the Commission to select consultants offered a fair opportunity to ACP nationals. The Commission's proposals only compounded that fear. They sought both to concentrate greater technical assistance control in the Commission and to remove the ACP states' right to agree to the need for such services.

A less overt but important effect was to bring into the open an internal difficulty within the Commission. It concerned relations between the services in Brussels and the Commission Delegations in the ACP states. The proposal to remove, from the Delegate, the responsibility for the preparation of financing proposals for projects was justified by the following admission. The existing arrangements could give rise to divergences between the positions of different Commission representatives. The initial draft of the financing proposal was drawn up by the Delegate but it could potentially be at odds with the final draft drawn up by other Commission officials at headquarters.<sup>89</sup> The Commission argued that such a state of affairs might be tolerable where internal procedure was concerned but decidedly not where a third party, the relevant ACP state, was involved. It was best, in such circumstances, to centralise the process in the services in Brussels.

The Court of Auditors had noted and addressed the problem of internal coordination, within the

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<sup>89</sup> European Commission, *Annex to the Explanatory Memorandum to the Negotiating Directives...*, op. cit., pp. 6-7.

Commission, on more than one occasion. In a study on the coordination of Community aid,<sup>90</sup> it stated that the Court had occasionally found coordination problems among administrative units supposedly carrying out the same policy under a single authority. The Auditors acknowledged that the system of overlapping responsibilities within the Commission often led to a working-level coordination. However, it drew attention, in particular, to poor coordination among Commission officials working in different countries.

The Court was far more explicit in its study of import programmes. It highlighted the poor flow of information from Delegates to the central services<sup>91</sup> in Brussels and the low profile which the central desk officers assumed once the financing proposal had been signed.<sup>92</sup> The Court also identified differences which prevailed between the Delegations and central services in their approach to import programmes. The Delegates often adopted a "minimalist" approach to the use of counterpart funds generated by the programmes. They sought to avoid disagreements with the Governments on the matter. On the contrary, the central services firmly believed that the Commission should not abandon the idea of channelling the counterpart funds towards the chosen priority sectors.<sup>93</sup>

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<sup>90</sup> Court of Auditors, Special Report on the Coordination of Community aid to Third Countries op. cit.

<sup>91</sup> Court of Auditors, Special Report on the Import Programmes, op. cit., p. 21.

<sup>92</sup> Ibid., p. 23.

<sup>93</sup> Ibid., p. 33.

There were other aspects of the Community's operational capacity which emerged from the various studies of the Court. A brief note should be taken of the conclusion which the Court had drawn from its assessment of the information and monitoring systems. The inadequacy of the systems meant that the Commission was not in a position to learn, for future projects, the appropriate lessons from ongoing experiences. The Court had also commented on the failure of the Commission to undertake meaningful evaluations of its projects and programmes. It was not until 1992 that the Evaluation Unit of the Commission was strengthened and given an enhanced role.<sup>94</sup> Since then, the Unit has assumed a pivotal role in drawing up and helping implement the Community's new approach to the management of projects, the "logical framework and integrated approach".<sup>95</sup> In the case of evaluation, the Commission has taken note of the shortcomings in its services and has certainly increased its internal capacity.

The final aspect of operational capacity within the Commission takes me back to the nature of the changes which have been occurring in Lomé cooperation.<sup>96</sup> It also takes me back to the ACP's

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<sup>94</sup> Court of Auditors, Annual Report for the Financial Year 1992 (OJ 93/C309), p. 24.

<sup>95</sup> The formulation and development of the approach has been well covered in European Commission, *Financial and Technical Cooperation under the Lomé Conventions in 1993*, op.cit., pp. 27-28 and European Commission, *EDF Operations in 1994 - Financial and Technical Cooperation under the Lomé Convention* (VIII/128/95), p. 30.

<sup>96</sup> See Section 5.4 above.

operational capacity. The shift to "horizontal-thematic" and sectoral approaches generated demands for new aspects of capacity. They varied considerably from the areas in which the Community had built up its strength. The new demands were both qualitative and quantitative in type.

The qualitative demands affected both the Commission and the ACP in two distinct forms. The first form concerned the new tasks which the managers had to meet. Those tasks were readily visible, even in programmed aid e.g., the general and sectoral import programmes. The sectoral policy guidelines and the increased rigour governing implementation required the Commission to focus on the economic management of recipients. It became involved in a number of such areas: the negotiation of a recipient country's macroeconomic and financial targets; the formulation of coherent sectoral policies; monitoring its adherence to sectoral conditionalities and coordination with other aid donors.<sup>97</sup> The ACP states found themselves in the position of respondents, having to satisfy yet another donor on sectoral and macroeconomic targets. This demand applied not only to structural adjustment support but often to Stabex reform and the use of counterpart funds. The tasks of managing Lomé aid have been widely diversified on both sides.

Not only have the tasks been diversified but so too have been the agents required to meet those tasks.

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<sup>97</sup> The Commission itself identified most of these new tasks. See European Commission, *EDF Operations in 1994...*, op. cit., p. 25.

With the emphasis on decentralised cooperation and horizontal themes, the new agents include non-governmental organisations, youth groups, women's organisations, cooperatives, farming bodies and the private sector. Neither the ACP nor the EC has had much experience in handling such a diversified portfolio of aid. Nor have they interacted with so wide a variety of possible beneficiaries and managers. The first half of Lomé IV had contained provisions for decentralised cooperation and the private sector but the analysis suggested that the application of the provisions had been less than satisfactory.<sup>98</sup>

Both sides agreed that the results in the two areas had been poor. The respective explanations for the poor performance differed but the conclusions were identical. The experience of Lomé had offered no lessons as to how to handle the new areas. The provisions agreed in the Mid-Term Review represent uncharted territory in the management of Lomé cooperation. The Commission itself raised some of the problems which were posed by decentralised cooperation. It also raised those problems which resulted from handling a wide variety of partners. It further alluded to additional problems likely to result from decentralised cooperation. The sources of problems included increased private sector

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<sup>98</sup> For a brief assessment of decentralised cooperation and the promotion of the private sector, see ACP Group, *The Mid-Term Review of the Fourth Lomé Convention...*, op. cit., p. 34 and pp. 37-38 respectively. The Commission looked at the issues in more detail. See European Commission, *Explanatory Memorandum to the Negotiating Directives...*, op. cit., pp. 15-16 and pp. 25-26 for treatment of decentralised cooperation and the promotion of the private sector respectively.

involvement; the choice of partner for a specific project; what type of contract to use with decentralised agents; and how best to monitor on-going work.<sup>99</sup>

The quantitative aspects of the new capacity demands undoubtedly affect the ACP states because, by their own admission, they do require human and material assistance for programme management. However, my concern, at this point, is with the Community. Commission reports have been forthright in their analysis. The Commission faced a growing problem of management constraints at the institutional level and, in particular, of staffing levels in its Development Directorate, DG VIII. One main cause of the constraints has been the fact that the Commission has been beset by pressures which reinforce each other. It has had to face budgetary limitations on recruitment while seeking to meet an increased set of responsibilities e.g., undertaking programmes in Eastern Europe. The increasingly complex tasks of Lomé project/programme management were met by frozen staff levels or, in effect, reduced levels due to redeployment to other divisions.<sup>100</sup>

The Commission identified some measures taken to deal with the problem: redeployment and reorganisation within the Commission, decentralisation, training and

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<sup>99</sup> European Commission, *EDF Operations in 1994...*, op. cit., p. 29.

<sup>100</sup> European Commission, *Financial and Technical Cooperation in 1993...*, op. cit., pp. 29-30. The issue was clearly of great import for concerns about staffing were repeated in the next year's report. See European Commission, *EDF Operations in 1994...*, op. cit., p. 33.

computerisation. It contended that those measures could only have a limited effect and that limit was close to being met. The problem has only been compounded in the specific case of its Lomé policy. In view of the staffing problems which it faces, it has had to resort to a greater use of technical assistance in the management of Lomé. This tendency has accentuated the difficulties which the ACP Group has with the Community bias in the selection of consultants.<sup>101</sup>

The dilemma, within the Commission, poses a further problem for the ACP Group which is very conscious of the attrition affecting the Commission. The problem stems from the fact that the staffing problem in the central services of the Commission has been mirrored by a number of closures of Commission Delegations in ACP states.<sup>102</sup> The Delegations are vital in the joint appraisal process and in the preparation of financing proposals for projects. Thus, the closure of an office is unlikely to contribute to a smooth management of the cooperation programme in the ACP state affected.

### **5.5.3 Community: The Delegate**

By the Mid-Term Review, the ACP and the

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<sup>101</sup> This problem is covered in Section **5.5.1**.

<sup>102</sup> This point was made in my interview with Carl Greenidge, Deputy Secretary-General of the ACP. He expressed the concern of the ACP at the implications, for the implementation of the Convention, of a possible rundown in Commission services.



Commission had come to hold diametrically opposed views on the role of the Commission Delegate. The Commission's opinion was that the existing provisions gave some undesirable responsibilities to the Delegate. They were responsibilities which could place the Delegation in potential conflict with the central services of the Commission. The latter wished to alter those which called for the Delegate to be involved in matters which were either the ultimate responsibility of the NAO (preparation and execution of projects) or subject to joint responsibility (evaluation).<sup>103</sup>

The changes were intended to give the Commission joint responsibility, with the NAO, for preparation and execution. Evaluation would be the sole responsibility of the Commission.<sup>104</sup> The Commission contended that the relevant powers were only *delegated* to its representatives in the ACP states. They thus represented no real transfer or decentralisation of authority. In any event, if the Commission acquired an enhanced role in the project or programme financing cycle, the existing provisions would have to be deleted or amended, as appropriate.

The ACP Group, on the contrary, argued for greater decentralisation of decision-making powers to both the NAO and the Delegate. In the latter case, the Group specifically proposed that the Delegate be given sufficient authority to overcome delays in the decision-making process e.g., in tender and contract

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<sup>103</sup> The responsibilities under discussion are covered in Article 317 (a), (b), (c) and (k) of the Fourth ACP-EEC Convention of Lomé.

<sup>104</sup> European Commission, *Explanatory Memorandum to the Negotiating Directives...*, op. cit., p. 21.

procedures.<sup>105</sup> The ACP Group was deeply opposed to the Community's intention to transfer authority from the Delegate back to Brussels. In the Group's view, it would complicate, rather than facilitate, the more rapid implementation of projects.

It is difficult to say whether the two sets of proposals were based on an appreciation of the operational capacity of the Commission Delegations. In other words, it is uncertain that the Commission had a low estimation of the functioning of its representatives or that the ACP held the work of the Delegates in high regard. What was unquestionable was the desire of the Commission to deal directly with what it saw as factors contributing to inefficient procedures. It felt that it was unnecessary to have to do so through an intermediary, be it its own representative or not. For its part, the ACP saw the Delegate as a more accessible presence of the Community, thus allowing for more ready contact and a less time-consuming process of implementation.

The operational capacity of the Delegates and their offices have been examined, to varying degrees, by the Court of Auditors. I have already raised some of its conclusions. The Court had concluded that coordination between the Delegates and the central services of the Commission did not always function smoothly.<sup>106</sup> It went on to indicate that, in such instances, the breakdown often led to the Delegate

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<sup>105</sup> ACP Group, *The Mid-Term Review of the Fourth Lomé Convention...*, op.cit., pp. 41-42.

<sup>106</sup> Court of Auditors, *Special Report No. 2 on the Import Programmes*, op. cit., p. 22.

lacking a clear idea of his duties.

In an earlier evaluation of multi-annual training programmes, the Court had highlighted the lack of suitable expertise.<sup>107</sup> It was referring, in this case, to training experts within the Commission Delegations. At that time, in 1986, there were only two such posts in all the Delegations. The Court was convinced that the shortage severely limited the ability of the Delegations to help the ACP states overcome their resource deficiencies in that area.

The Court devoted most attention to the Delegations in its study of import programmes where it identified a number of failings on the part of the offices.<sup>108</sup> It cited ineffective dialogue with the NAOs; overdependence on technical assistance consultants for the preparation of reports; ill-defined terms of reference for these consultants; inadequate preparation and monitoring of programmes; and poor feedback to the central services of the Commission. Not all of these shortcomings were wholly attributable to the Delegate. The Court did stress that the import programmes did not have a clear operational framework delineated in Brussels. Additionally, the structure of the central departments in Brussels were poorly suited to the effective monitoring of import programmes.

The Court also highlighted the lack of resources

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<sup>107</sup> Court of Auditors, Annual Report for the Financial Year 1986, op.cit.

<sup>108</sup> Court of Auditors, Special Report on Import Programmes..., op.cit.

at the Delegate's command. The Delegations were unable to oversee the implementation of import programme on a routine basis. They were usually inadequately equipped to deal with the demands of preparing and monitoring such a comprehensive programme. The programmes required, for example, an adequate knowledge of prevailing banking and trading procedures so as to manage the generation and use of counterpart funds derived from a number of operations.<sup>109</sup> In one sense, the Report of the Court castigated the Commission almost as much as it did the Delegations. In mitigation, it should be said that the import programmes were a novel feature of Lomé III and represented a set of complex, large-scale programmes. They presented unfamiliar and difficult problems for both Delegations and Commission services.

It is apparent that the Delegations are not as well equipped as they should be and often have to resort to the use of consultants. However, it would seem that the Delegate, given the limited resources available, is best suited to handling the more traditional duties within the project cycle. The additional tasks which fall to the office, as the Report on the import programmes suggests, require more specialised skills and expertise. These skills do not routinely form part of the roster of an average Delegation. One impression gained from the analyses is that the role of the Delegate is a fluid one, constantly evolving as clearer images emerge of the demands which might be placed on the office. It remains to be seen in what ways the staffing and administrative constraints of the Commission will

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<sup>109</sup> Ibid., p. 30.

affect its ability to equip the Delegations to meet future demands.

## **5.6 ADAPTABILITY TO CHANGED CONDITIONS**

The concept of sustainability has been increasingly mentioned by the ACP Group. I have earlier alluded to the concern of the Group, in the Mid-Term Review, to promote sustainable growth by encouraging the use of ACP human resources.<sup>110</sup> A former ACP Secretary-General offered a more reflective view of ACP objectives in Lomé cooperation. He suggested that ACP states could be said to have failed if the cooperation had not resulted in an increase of their own capacities to handle the tasks of development.<sup>111</sup> It is an appreciation which the Convention itself enunciated in the provisions of Lomé III. It stated that the aim of financial and technical cooperation was "to do away progressively with the need it fulfils."<sup>112</sup>

The Court of Auditors, on the Community's side, echoed that commitment to the goal of sustainability in its evaluation of the import programmes. It noted that "the import programmes of the sixth EDF (Lomé III) were supposed to aid the recovery of the manufacturing sectors of the ACP states and thus

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<sup>110</sup> See Sections **4.3.1** and **5.1** above.

<sup>111</sup> Interview with Edwin Carrington, Secretary-General of CARICOM. He formerly served as Deputy Secretary-General of the ACP during Lomé I & II and as Secretary-General for the duration of Lomé III.

<sup>112</sup> Article 188(i) of the Third ACP-EEC Convention of Lomé.

eliminate the needs they were supposed to satisfy."<sup>113</sup>

The struggle to achieve this objective of sustainable development is still underway. My research is just one attempt to assess how well it has fared in the area of capacity building. A major component of the struggle for sustainability is the generation of capabilities which can be utilised in the changing conditions which are the essence of the process of development. In the light of the foregoing treatment of operational capacity, an effort can be made to determine what this capacity augurs for adaptability.

I focus on just a few issues as examples of changed conditions: one internal to the relationship, the FMOs in the Stabex programme;<sup>114</sup> one external to the relationship, the changes in the global trade regime under GATT; and an amalgam of internal and external conditions, the introduction of sectoral emphases and rigour<sup>115</sup> in the Seventh EDF.<sup>116</sup> The first and third have already been discussed so I need not dwell on their details. The second is discussed more extensively.

At a general level, I must note that the initial advantage of adaptation lay with the Community as all three examples of changed conditions were inspired and

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<sup>113</sup> Court of Auditors, Special Report on Import Programmes..., op. cit., p. 28.

<sup>114</sup> See Sections **2.1.4** and **5.4** for a treatment of the FMOs.

<sup>115</sup> The issue is raised in Section **5.4** and developed in Section **5.5.2**.

<sup>116</sup> The Seventh EDF covered Lomé IV.

implemented by the donor grouping. It was thus better able to anticipate the likely impact of the changes on Lomé and to organise its own reaction. The ACP coped much less competently.

In the case of the FMOs, my earlier examination revealed that some ACP states were wary of the tighter controls which the FMOs heralded.<sup>117</sup> They were also concerned by the potential of the FMOs for intrusion into the domain of domestic economic policy. The Commission has admitted that the application of the FMOs placed a heavy burden on both sides and caused delays of months in the transfer of Stabex funds.<sup>118</sup> Except in the case of Stabex funds used for structural adjustment, ACP efforts to comply with FMO requirements led to long delays in gaining access to foreign exchange or counterpart funds. The conclusion drawn from this first example is that the ACP's capacity to adapt to the FMOs was even lower than normal. This conclusion might have been expected, given the additional demands which the FMO agreements posed. They required the ACP states involved to supply more comprehensive economic details and satisfy additional criteria.

The new sectoral emphases in EDF aid, and the stricter conditions which they entailed, also revealed severe constraints on the ACP's capacity to respond. The Commission established a linkage between the implementation of Governmental reforms and the granting of Community aid. The initiation and

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<sup>117</sup> See Section **2.1.4**.

<sup>118</sup> European Commission, *EDF Operations in 1994...*, op. cit., p. 16.

implementation of projects and programmes, even of the traditional type, were made subject to prior changes in economic policies in the sector in question. The changes were especially demanded in policies which affected the long-term viability of the planned operation.

The efforts at sectoral rigour have resulted in a more complicated process of project implementation. On average, about 20-30 months elapse between project identification and the corresponding primary commitment i.e., the financing decision.<sup>119</sup> The time-lags occur in the process of satisfying the new emphases. These emphases have placed greater burdens on ACP capacity, thus generating the delays which correspond to roughly one-half the life of the Convention.

The time-lags represent a major obstacle to project management when put into the context of the Convention. The ratification process of the Convention suffers from customary delays and most ACP states take about one year to agree on programming. The time-lags average about two years in the initial phase of implementation. By 1993, with more than half of Lomé IV expired, some 41 countries (out of 69 ACP states) had obtained primary commitment on 50% or less of

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<sup>119</sup> European Commission, *Financial and Technical Cooperation under the Lomé Conventions in 1993*, op.cit., p. 23. The financing of an EDF project follows three stages: the primary commitment or decision to finance; secondary commitment with the signing of a contract or acceptance of an estimate; and the payment or disbursement of funds.



their projects.<sup>120</sup> The figures speak for themselves: the ACP states are failing to adapt effectively to the new conditions posed by sectoral rigour.

The third example relates to the impact which the changes in the global trade regime, agreed in the Uruguay Round of the GATT, had on the trading positions of the two Groups. The GATT changes impacted directly on commodity exports from the ACP, most notably on bananas. ACP banana producers account for only a small portion of the Group. However, their responsiveness can be taken as only one example of the general ACP capacity to adapt to changed conditions.

The impending changes to the conditions governing the Banana Protocol were apparent, well in advance of the negotiations for Lomé IV. The changes had been a main item of discussion at a Conference, on the implications of 1992, hosted by the West India Committee in London in 1988. It discussed the concerns of the banana producers in the context of both the Single Market and the Uruguay Round. The main strategy of the ACP producers has been to seek special protection within the Community market. It was an approach which has placed both them and the Community at odds with other participants in the WTO (World Trading Organisation), the successor to the GATT. The matter of EC protection for ACP bananas is currently under adjudication in the WTO.

The response of the ACP banana producers to the problem is symptomatic of a wider ACP malaise: its

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<sup>120</sup> Ibid., Annexe 3. It has to be noted, however, that the list included 7 countries with which aid had been suspended.

failure or incapacity to diversify its production and destinations of its exports. In the face of the threats posed by the Uruguay Round to its commodity trade with the EC, the general ACP position was to insist that the Community preserve ACP preferences. Where any loss of preference ensued, they insisted that the Community offset it by "clear quantifiable compensation".<sup>121</sup> The ACP was adamant that the provisions of trade cooperation, in the Lomé Convention, specifically addressed ACP-EEC trade. The Group was not prepared to accept the "vague promises by the Community to assist the ACP to find alternative markets."<sup>122</sup>

It was a painful trade-off which the ACP states faced. On one hand, they faced persuading the Community to help design and underwrite a policy of trade and export diversification. Such a policy could lead to trade diversion which would impact negatively on their preferences. On the other hand, an ACP failure to adapt its policies increased the likelihood of having to accept changes which affected ACP preferences but were decided in an international forum.

This trade-off was the basis of the dilemma confronting the banana producers. It helps to demonstrate why their issue exemplifies the wider ACP stance. The ACP Group has chosen to ignore the fundamental importance of the trade-off to its own

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<sup>121</sup> ACP Group, *Memorandum on the Guidelines for the Negotiations for a Fourth ACP-EEC Convention*, *op. cit.*, pp. 123-124.

<sup>122</sup> *Ibid.*, p. 124.

trade development for both capacity and tactical reasons. In the latter regard, it considered the Community's encouragement and support for diversification as a ploy designed to deflect ACP demands for continued preferential access. The major constraint, for the ACP, was its capacity. It was unable to formulate viable alternatives to the threats which trade liberalisation, under the Uruguay Round, posed to its exports. In that sense, changed conditions in trade found the ACP unable to mobilise the requisite capacity to compete in the liberalised global market.

## **5.7 CONCLUSION**

The examination of Lomé's contribution to operational capacity reveals that the Community, in the guise of the Commission, has been better able to gain from the experience. Its operations have come under greater scrutiny and evaluation, with the areas for improvement being emphasised. Efforts have specifically been made in evaluation and monitoring to respond to the need for improved performance. There still remain other areas of challenge e.g., the level of staffing and range of skills. On the evidence, however, the Community's operational capacity has increased, not deteriorated.

The report on the ACP is much less positive. I distinguish between issues and agents. Focusing on the former first, I conclude that the ACP Group has managed to increase its capacity in certain aspects closely linked to Lomé operations, particularly trade. The Group has fared worse on the "global issues" which have a wider resonance as part of international

economic policy e.g., debt and structural adjustment.

From a more general perspective, the ACP Group has failed to acquire the capacity to carry out fully its responsibilities to help manage the implementation of the Convention. This failure has contributed, in no small part, to the multiplicity of problems which they face in project and programme management. The overall effect is that the ACP Group has not gained sufficient operational capacity to make their task of development any less burdensome. After twenty years of cooperation covering all sectors of their economies, the ACP states have failed to demonstrate the expected progress in development. It is a disappointing conclusion for both parties but it is useful to gauge the differences in reaction between the two parties to the Convention.

The ACP states, as might be expected, have persevered in their efforts. They cling to the hope that the cooperation will still contribute to an increase of their capabilities and skills. This position reflects both impotence and desperation in the Group. Its desperation stems from the apparent inevitability of events. Changes in Stabex, increased rigour in project management and the insertion of political considerations into the Convention were all new developments which culminated in multiple conditionality. The ACP was either oblivious to the looming dangers or unable to stave them off. The Group's impotence is closely linked to its operational capacity. Some dangers were recognised. However, the capability to fashion alternatives in a technically competent manner appeared beyond the ACP. It could not do so in the case of trade reforms or in the case of

conditionality. Its sole recourse has been to ignore the implications of the changes for the relationship and blithely accept each lower level of satisfaction which the changes introduce.

The Community has adopted a less optimistic approach to operational difficulties. The choice in such circumstances is between two options: greater efforts at strengthening ACP capabilities and assuming a greater responsibility for the tasks. The experiences have been viewed as so unproductive that the Community has chosen to turn away from efforts at building ACP capacity. It has moved increasingly towards a centralisation of powers in its own services. Its first inclination has been to choose the easier option in dealing with the structural problem of effective management of cooperation.

The Community has chosen to set up implementation units rather than pursue sustainable capacity-building in the ACP states. The latter is seen as too costly, both in time and in political accountability. This choice of the more facile option was demonstrated in the Community's advocacy of a regional implementation unit for the Caribbean. It was also demonstrated by its unsuccessful championing of more widely applicable technical management units for the implementation of the NIPs.

A second feature is that many of the Commission's proposals for change in the management of cooperation emanated from its own agenda. They were not necessarily based on the lessons of the Lomé experience. They owed more to the need for internal accountability to the Community's political masters.

Above all, they were based on the need to heed the criticisms by the Court of Auditors of the Commission's role in the operations of the EDF.

The examination of operational capacity substantiates the conclusion reached in the previous Chapter. The Community exercised a pervasive operational control and sought to extend and formalise that control. It tried to do so through the centralisation of responsibilities in its Brussels services. It was even prepared to divest its Delegations of authority to enhance its central control. This focus was also illustrated by its attempts to rationalise programme management in ACP states through the establishment of technical management units, the staff of which would be chosen by the Commission.

The most common characteristic of the Community's reaction on operational matters and problems has been retrenchment. This tendency is evident in most of the proposals, made by the Commission in the Mid-Term Review, on procedures, evaluation and implementation. The tendency has a readily apparent implication for multiple conditionality. It bespeaks a fatalistic conclusion by the Community that the ACP states are unlikely to succeed in overcoming their constraints. It further suggests that the demands of conditional cooperation will have to be increasingly met by the Community's own resources, with less reliance on shared management with the ACP. It raises the intriguing question of how, and with what measures, the two sides have prepared for these new demands. The next Chapter, on *instrumental capacity*, attempts to answer this question.

## CHAPTER 6

### INSTRUMENTAL CAPACITY

In this Chapter, I deal with *instrumental capacity*, the final aspect of institutional capacity. I focus, first, on the nature of the tasks which are posed by the introduction of multiple conditionality. Secondly, I examine the measures which have been identified to meet these tasks. I then seek to determine how well the measures envisaged match the tasks. Finally, I draw some conclusions as to possible ways in which the effect of instrumental capacity might be enhanced.

#### 6.1 SOME CONSIDERATIONS

##### 6.1.1 Nature of Tasks

Before dealing with the four sections, I need to address some considerations which affect the first three issues to be covered in the Chapter. At first sight, the nature of the tasks appears to be simple and obvious: the promotion of economic and sociopolitical reforms within ACP states. Instrumental capacity, in such a context, consists of the measures required to achieve the stated goals of economic and political liberalisation and good governance. These measures include the democratisation of the political process, promotion of the rule of law, respect for human rights and economic reform. However, a deeper consideration suggests that the tasks go beyond the agreement and introduction of these provisions. It also includes their long-term acceptance and

application by the ACP states.

One assessment of the macroeconomic reforms of structural adjustment concluded that the success of reform measures depends, primarily, on two factors. The first is the scope and content of the measures. The second is their consolidation i.e., their institutionalisation within the policy system.<sup>1</sup> In short, instrumental capacity needs to address both the immediate task of attaining the objectives sought and the means of ensuring their entrenchment. In the latter regard, there is no set of measures which has been tried and proven as a reliable method of institutionalising reform. However, there does appear to be a common and growing accord as to what is necessary, if not sufficient, for encouraging the process.

Within the traditional approach to development projects and programmes,<sup>2</sup> three such contributory factors have been identified. The first is a recognition that the maintenance and operation i.e.,

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<sup>1</sup> See Stephan Haggard & Robert R. Kaufman, "Introduction: Institutions and Economic Adjustment", pp. 6-7 in Haggard & Kaufman eds., *The Politics of Economic Adjustment* (Princeton: Princeton University Press, 1992).

<sup>2</sup> I use the work of three such officials as illustrative of the trend in thinking among World Bank officials that close attention should be paid to institutional factors in development management. See, for example, Arturo Israel, *Institutional Development: Incentives to Performance* (Baltimore: Johns Hopkins University Press, 1987); Samuel Paul, *Institutional Development in World Bank Projects: A Cross-Sectoral Review* (World Bank, April 1990: WPS 392); and Lawrence Salmen, *Institutional Dimensions of Poverty Reduction* (World Bank, May 1990: WPS 411).



the long-term aspects, of development projects are as important as their design and initiation.<sup>3</sup> The second factor is that the sustainability of projects demands a greater focus on the needs of beneficiaries.<sup>4</sup> The third is that a primary goal of project design should be to allow interplay between formal organisations - public, private and voluntary - and the informal, non-organisational institutions of the less affluent.<sup>5</sup>

These latter institutions include legal and religious practices, the role of the family and forms of hierarchical authority e.g., local elites. They often determine the prevailing patterns of behaviour of the poor who are the most likely targets of the projects. However, these institutions are social in nature and prove subtle and elusive to define. It is thus very difficult to cater for them in operational terms. Nonetheless, several forms of informal bodies do exist and they offer operational forms of voice for the poor. A small list of such bodies is given in my treatment of the "greenhouse approach" which immediately follows this section. They include informal sector entrepreneurs, women's groups and community-based associations.

The "greenhouse approach"<sup>6</sup> to projects and

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<sup>3</sup> Israel, *Institutional Development...*, op. cit., p. 4.

<sup>4</sup> Paul, *Institutional Development in World Bank Projects...*, op. cit., passim.

<sup>5</sup> Salmen, *Institutional Dimensions of Poverty Reduction*, op. cit., pp. 1-2.

<sup>6</sup> For a description of the "greenhouse approach", see Goran Hyden, "Creating an Enabling Environment" in *The Long-Term Study of Sub-Saharan Africa: Background*

programmes is one example of alternative thinking on projects and programmes. This approach rejects the notion that human and institutional capacity can be built in a mechanistic fashion. It stresses, conversely, the need to create the conditions, the "enabling environment", under which capacities which already exist in recipient countries can be nurtured. Existing local know-how and efforts - community-based organisations, informal sector entrepreneurs, women's groups, etc. - constitute anchor points to which higher levels of societal action - Governments, businesses, NGOs and donors - should be connected for the basis of development.<sup>7</sup>

Both the traditional and the alternative approaches lay emphasis on the inclusion of social and political elements at the outset of efforts to build institutional capacity. This emphasis has also characterised the perceptions of Commission officials in their approach to Lomé reforms. Attention has already been drawn to the specific support which had been given to sociopolitical measures in programming and to the role of sectoral programming in the SAS of the Community.<sup>8</sup>

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*Papers*, Vol.3: Institutional and Sociopolitical Issues (Washington, D.C.: The World Bank, 1990).

<sup>7</sup> Ibid., p. 74. Hyden's category of local efforts and know-how is one set of the informal, social institutions identified by Salmen (see footnote **5** above). They represent a group of associations of the beneficiaries of projects and are thus not difficult to include operationally in design and implementation.

<sup>8</sup> Interview with Bernard Petit, Head of the Adjustment and Planning Division, DG VIII of the Commission in Brussels in September, 1995. The measures mentioned have been covered earlier in Chapter **5**. See

Commission officials have also expressed the need for more sectoral and social science expertise to enable it to handle areas such as women in development, transport and the agrarian sector.<sup>9</sup> More specifically, the Commission, in its contribution to the coordination of donor efforts, stressed the importance of supporting Governments in the management of the political process of policy reform. This support was to be given through "a closer and permanent cooperation between the public sector, business associations, trade unions and associations representing those lacking voice, such as farmers' associations".<sup>10</sup>

The position of the Commission was that such cooperation should be institutionalised with the involvement of the private sector and civic groups in the implementation of economic reforms. This institutionalisation would help in several ways. It would help to improve the content of policies, ameliorate the implementation of reforms, increase the credibility of the programme and develop the technical capacity and knowledge of the administration.

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Section **5.4** above.

<sup>9</sup> Interview with Peter Pooley, Deputy Director-General of DG VIII of the Commission in September, 1995.

<sup>10</sup> European Commission, *The Design of Economic Reform in the Context of Political Liberalization: Findings and Conclusions from Case Studies* (December, 1994: Paper prepared for the Meeting of the Special Programme for Africa in January, 1995), p. 21.

### 6.1.2 Identification of Measures

The consensus of all three perspectives - the traditional, the alternative and the Commission's - is that there has to be a collective approach encompassing the public, private, voluntary and informal sectors. They need to be involved in both the initial stage of programme design and the process of implementation. This recognition suggests that the examination of the measures, in the Lomé relationship, identified to meet the tasks of multiple conditionality should cover two sets of provisions. These are the specific provisions proposed in the revised Convention and in Lomé IV itself as well as those covering sociopolitical issues e.g., decentralised cooperation, youth and women. It is through consideration of the latter that a judgement can be made on what steps have been taken to build an enabling environment for the consolidation of reform.

I must, however, expand on an element raised above i.e., that the measures identified to meet multiple conditionality do include some already agreed in Lomé IV. Some explanation is required here lest it be seen as contradictory that some aspects of instrumental capacity, designed to help implement multiple conditionality, pre-date the application of the conditionality programme. The explanation lies in an intellectual sleight-of-hand perpetuated by the Community. Prior to the negotiation of the Mid-Term Review, the Community had never explicitly stated its desire to impose conditions on the granting of aid to the ACP. The SAS programme under Lomé IV was depicted as bolstering the efforts of ACP states in adjustment programmes to meet the largely neglected social

consequences of such adjustment.<sup>11</sup>

During the preparations for the negotiation, the Community engaged in a retrospective interpretation of the SAS, casting it as the first pillar of conditionality in the economic sector. The Commission stated that a linkage had been established between the implementation of Government measures and the granting of Community aid.<sup>12</sup> It further indicated that, on the macroeconomic level, the release of funds under the SAS was directly linked to the proper implementation of the economic measures agreed with donors.<sup>13</sup> I have already dealt with the increasing rigour attached to Stabex allocations through the FMOs.<sup>14</sup>

The most graphic example of the retrospective interpretation of provisions of Lomé as conditionality occurred in the political arena. It was that of Article 5 which was used as a basis for sanctions, first, against Haiti and later against several other ACP states.<sup>15</sup> I have earlier dealt with the application of Article 5 to Haiti.<sup>16</sup> It will be recalled that

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<sup>11</sup> See Sections **2.1.3** and **2.3.2** where the interpretations of the SAS are discussed.

<sup>12</sup> European Commission, *EU-ACP Cooperation in 1994* (Special Edition of the *ACP-EU Courier*, June 1995), pp. 36-37.

<sup>13</sup> *Ibid.*, pp. 38-39.

<sup>14</sup> See Chapter **5**.

<sup>15</sup> During 1994, Haiti had been restored to the list of eligible countries but eight others had been excluded: Equatorial Guinea, Gambia, Liberia, Nigeria, Somalia, Sudan, Togo and Zaire.

<sup>16</sup> See Section **2.5.2**.

Article 5 of the Fourth Lomé Convention had expressed a commitment of the two parties to the observance of basic principles on human rights. While it linked respect for human rights to cooperation, it did not contain provisions for sanction. Although they were not so identified at their conception, some provisions of Lomé IV were reinterpreted, by the Community, as instrumental measures with conditional effect.

### **6.1.3 Match of Tasks and Measures**

In the third substantive section of this Chapter, I will assess how well the measures proposed as instrumental capacity match the tasks identified. There already exists a type of operational record, in the form of the Convention programmes dealing with structural adjustment and the sociopolitical issues. On a different level, the match of the measures to the tasks can also be gauged by reference to a study carried out, at the behest of the Commission. This study examined the experiences of ACP states under structural adjustment i.e., in MFI programmes.<sup>17</sup> The study drew certain conclusions about ACP states in adjustment. These conclusions represented an indicative list of probable concerns for a conditionality programme which contains macroeconomic adjustment as an integral element. My assessment, therefore, looks at the ways in which the instrumental measures take account of the conclusions of the study.

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<sup>17</sup> See Patrick and Sylviane Guillaumont eds., *Adjustment and Development: The experience of the ACP States (Africa, Caribbean, Pacific)* (Paris: Economica, 1994).

## 6.2 NATURE OF TASKS

### 6.2.1 Provisions for Reform

The basic elements of multiple conditionality were readily visible in Annex IIIa of the revised Lomé IV.<sup>18</sup> In this Annex which consisted of a Community declaration, the EC outlined the parameters of its policy dialogue with the ACP on the programming of aid. It had been agreed in Article 4 of the revised Convention that account would be taken of the objectives and priorities of the EC's cooperation policy in the dialogue. The objectives and priorities were identified succinctly in the Annexe:

- the sustainable economic and social development of developing countries;
- their smooth and gradual integration into the world economy;
- emphasis on the revitalisation of their economies through the promotion of the private sector;
- the development and consolidation of democracy and the rule of law;
- adherence to human rights and fundamental freedoms.

Article 281.2 of the revised Convention established a complementary approach, combining the development strategy of each ACP state with the cooperation objectives of the EC. The flexibility built, by the programming procedures, into the use of

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<sup>18</sup> See Lomé IV Convention as revised by the agreement signed in Mauritius on 4 November 1995, *the Courier* No.155, January-February, 1996.

resources was intended to ensure greater efficiency in resource use and to provide an incentive for good ACP performance in implementation.<sup>19</sup> The EC further sought to ensure good performance by stressing the need for consistency among the various aid instruments of the Convention e.g., Stabex, the SAS and the sectoral policies of the NIP. The instruments should be so applied that they all lent support to the same objectives.

More concretely, the revised Convention expanded the general commitment of the two parties to respect for human rights. It stressed the fact that "development policy and cooperation shall be closely linked to respect for and enjoyment of fundamental human rights...".<sup>20</sup> In the macroeconomic arena, the basis for structural adjustment reforms had been laid in Lomé IV. However, previously innocuous provisions took on added meaning, assuming greater and more rigorous significance in the context of an explicit conditionality programme.

I will focus on two such examples. The first identifies an objective of the SAS as being to assist the ACP states to "create an economic environment favourable to a resumption of, or an acceleration in, the growth of GDP and employment."<sup>21</sup> The second lists another goal of the SAS, which is to "improve public

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<sup>19</sup> I have dealt elsewhere with the phasing of programme resources through tranches. See Sections **2.2.4** and **4.4**.

<sup>20</sup> Article 5.1 of the Fourth Lomé Convention as revised.

<sup>21</sup> Ibid., Article 243.1(a).



sector management and provide appropriate private sector initiatives".<sup>22</sup> In the context of conditionality, the provisions serve, respectively, as the basis for overall macroeconomic reform and the rationalisation of the public sector in favour of the private. The parties also specifically recognised the importance of promoting, in ACP states, an environment favourable to the development of a market economy.<sup>23</sup>

### **6.2.2 Consolidation of Reform**

With regard to the second type of task, the consolidation or institutionalisation of reforms, the revised Convention took account of the importance of popular participation. It stated that "the role and potential of initiatives taken by individuals and groups shall be recognised in order to achieve in practice real participation of the population in the development process...".<sup>24</sup> The revised Convention went on to stipulate that "cooperation shall also encourage participation by the population in the design and execution of development operations."<sup>25</sup> Moreover, in appreciation of their heightened role, the provisions in support of decentralised cooperation were assigned a separate section, within the Chapter on Financial Cooperation, in the revised text.<sup>26</sup>

It could be said that the nature of the tasks

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<sup>22</sup> Ibid., Article 243.1(c).

<sup>23</sup> Ibid., Article 6.2.

<sup>24</sup> Ibid., Article 5.1.

<sup>25</sup> Ibid., Article 13.

<sup>26</sup> Ibid., Section 4(a).

demanded by multiple conditionality was adequately recognised by the ACP and EC, as reflected by the emphases placed in the revised Convention. It is thus apposite to turn to the measures which were identified to see what practical steps were considered by the two sides to meet these tasks.

### **6.3 MEASURES IDENTIFIED**

The measures identified could be divided into three sets: those relating to macroeconomic reform; those covering sociopolitical conditionality; and those concerned with institutionalisation of the reform. In the first two cases, the applicable measures consisted of both support in the form of positive encouragement and punitive sanctions.

#### **6.3.1 Sociopolitical Conditionality**

The measures which were identified to promote human rights and democratisation and strengthen the rule of law were three-fold in nature. First, they offered support for active steps by the parties to the Convention. Secondly, they promised support for public and private initiatives by organisations with internationally-recognised expertise. Finally, they provided financial resources, in accordance with the rules in the Convention governing development finance cooperation.<sup>27</sup> Some 80 million ECUs have been allocated, within the allocated funds, to enable the EC to lend support to institutional and administrative reform measures in the context of democratisation and

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<sup>27</sup> See Article 224(a) of the revised Fourth Lomé Convention.

the rule of law.<sup>28</sup> The three main tenets of sociopolitical reform - adherence to the principles of human rights, respect for democracy and for the rule of law - were classified as "essential elements" of the revised Convention. Any violation of these elements would trigger a series of remedial procedures, escalating from consultations with the offending state to partial or full suspension of the state from the Convention.<sup>29</sup>

The provisions affecting sociopolitical conditionality built on earlier measures within Lomé IV. They drew on the general commitment to fundamental human rights in Article 5 of Lomé IV. They also expanded on specific measures, within that Convention, to support the growth of the democratic process in ACP states. Under the provisions of Article 5, there had been an earlier commitment to provide financial resources in support of human rights and democratisation. In 1992, the Community had used this commitment as the basis for providing support to a number of countries in sub-Saharan Africa.<sup>30</sup> Support took the form of the supply of material and technical assistance for the preparation, organisation or conduct of elections. The list of countries so assisted included Angola, Burkina Faso, Guinea, Ghana, Lesotho, Madagascar, Mauritania, Mozambique and

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<sup>28</sup> Gérard Vernier, "The Lomé IV Mid-Term Review: Main Innovations", *the Courier* No.155, January-February, 1996, p. 8.

<sup>29</sup> Article 366(a) of the revised Fourth Convention.

<sup>30</sup> Hans Smida, "Community support for setting up and strengthening democracies", *The Courier* No. 138, March-April, 1993.

Senegal.

### 6.3.2 Macroeconomic Reform

In the area of economic reform, the measures agreed were a combination of new provisions designed to address conditionality and, principally, of a recasting of prior steps already contained in Lomé IV. One set of new measures introduced the possibility of using Stabex transfers in line with structural adjustment programmes and in support of coherent reform policies.<sup>31</sup> A second set of new provisions covered the decision to stagger financial allocations to ACP states. It made the issue of each subsequent tranche dependent upon the ACP state concerned completing satisfactorily a series of objectives laid out in its draft NIP.<sup>32</sup>

The intent of the objectives was, *inter alia*, to ensure that the ACP identified priority development objectives (both at the national and regional level), the focal sectors to be supported and proposals for private and/or industrial sector development.<sup>33</sup> The aim was in keeping with the Community's goal to have the ACP states commit themselves to clear policies aimed at achieving the objectives agreed in the joint programming exercise and to do so within a fixed time-frame. Underlying the phased financial allocations was a fundamental desire of the Community. This desire was to subject the ACP to increased discipline and

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<sup>31</sup> Article 209.4 of the revised Fourth Convention.

<sup>32</sup> *Ibid.*, Articles 281 & 282.

<sup>33</sup> *Ibid.*, Article 281.2.

scrutiny in implementation under penalty of sanction. The sanction would be the withholding of subsequent tranches in the case of a state's failure to meet agreed objectives.

The provisions covering structural adjustment and the SAS in the revised Convention contained only one significant element which differed from those in Lomé IV. That element was included at the urging of the ACP. It allowed the provisions to be extended to give specific encouragement to reform measures at the regional level. What was new about the SAS was not its content but the context in which it was placed in the Mid-Term Review. As mentioned earlier, the SAS was characterised as contributing to the alleviation of the social consequences of MFI adjustment. During the negotiations for Lomé IV, the initial insistence of the Community was that it was in no position to mount its own full-fledged adjustment programme. However, it was able to make a contribution, particularly in the social sectors. After the Mid-Term Review, the largely unmodified SAS of Lomé IV emerged as a central plank of the conditionality programme, providing the macroeconomic complement to the sociopolitical element. Its original incarnation as support to the social sector, neglected in MFI adjustment programmes, has been discarded.

It should be noted that the Community has always emphasised the qualitative differences between its approach to adjustment and that of the MFIs. The Community's, in its own view, was better differentiated, more pragmatic and added a more human face to adjustment. Six primary concerns were highlighted in the Community's support for structural

adjustment during Lomé IV.<sup>34</sup> They were the internalisation of programmes; priority for long-term development aims; differentiated programmes geared to local situations; a realistic, modulated rate of implementation attuned to local potential; incorporation of the social dimension from the outset; and full consideration of the regional dimension of adjustment. In articulating these differences between the two models, the Community was thereby conceding that the original SAS was an adjustment programme, with all the attendant conditionalities which that reality entails.

It is also important to reiterate that the adjustment programme described pre-dates the introduction of conditionality but was clearly considered by the Community as complementary to those of the MFIs. It is this reinterpretation of Lomé IV provisions which I have portrayed as retrospective. Both the Court of Auditors and the Commission draw attention to the conditions in the SAS and to the inability of some ACP countries to meet those conditions and the reform programmes being pursued.<sup>35</sup> These failings were demonstrated in the application of the SAS. In the first allocation in 1990, 24 out of 38 eligible ACP states reached the first stage of the allocation process and only 20 actually benefitted; in the second phase, at the end of 1992, only 17 ACP

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<sup>34</sup> See Bernard Petit, "Democracy and structural adjustment in Africa", *The Courier* No.138, March-April, 1993, pp. 74-75.

<sup>35</sup> See Court of Auditors, Annual Report for the Year 1993 (OJ 94/C327), p. 280 and European Commission, *Financial and Technical Cooperation under the Lomé Convention in 1993...*, op. cit., p. 13.

states qualified.<sup>36</sup>

The final set of measures affecting economic reform has been mentioned earlier but a brief note here is necessary. It concerns the increased sectoral rigour and consistency which the Commission sought across the instruments of the Convention. This sectoral conditionality also pre-dated the Mid-Term Review and the introduction of conditionality. It is further testimony to the fact that the introduction of conditionality did not necessarily give rise to a host of new elements designed to give it effect. It often relied on a varied and more rigid application of existing provisions.

This reorientation of existing provisions is reminiscent of the Commission's use of policy dialogue during the programming exercise for Lomé III.<sup>37</sup> It suggests that the Community wished to insert, during the implementation process of Lomé IV, a policy orientation which the timing of the initial negotiations had allowed the ACP states to escape. Commissioner Marín had often warned the ACP that the Group had been fortunate to have negotiated Lomé IV before the end of the Cold War.<sup>38</sup> It had thus avoided

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<sup>36</sup> European Commission, *Financial and Technical Cooperation under the Lomé Convention in 1993...*, op. cit., p. 13.

<sup>37</sup> See Section 2.1.2 where the Community's efforts to introduce policy dialogue during the programming exercise is discussed.

<sup>38</sup> See, for example, European Commission, *The Explanatory Memorandum to the Negotiating Directives for the Mid-Term Review* (unnumbered), pp. 7-9. This document, which was submitted by Commissioner Marín,

the resulting repercussions and the stricter terms governing development assistance. In recasting the existing provisions, the Community was acting in strict accord with the letter of the provisions agreed but not, the ACP would claim, with the spirit of the agreements.

The Community offered a very different series of explanations for the emergence of conditionality within the SAS. In response to requests for assistance from ACP states undergoing structural adjustment, it had taken a major political decision to agree to provide support in Lomé IV. The Community was responding to the views of some ACP states that it (the Community) could help bridge lending gaps in adjustment programmes. Those ACP states believed that the Community, given its history of cooperation with the ACP, would have a more empathetic approach to ACP problems.<sup>39</sup> In the Community's explanation, the provisions agreed in the Convention have served as objectives, guidelines and implementation methods. What has followed has been the enactment of a range of measures to give full effect to the decision.<sup>40</sup>

In this sense, the Community was operating within

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stated explicitly the need to take stock of the economic and political changes which had taken place, both globally and between the ACP and the Community, since the signing of Lomé IV.

<sup>39</sup> See "European Union and Structural Adjustment", Briefing Paper of European Network on Debt and Development (Eurodad), May 1995.

<sup>40</sup> See European Commission, *Community support for structural adjustment in the ACP countries: towards the consolidation and strengthening of a realistic and concerted approach* (COM (94) 447 final).



the obvious parameters that there could be only one adjustment programme in any given country. The Community could not fashion an alternative or parallel programme. Its primary concern was that its distinctive approach, as expressed in the text of Lomé IV, be taken fully into consideration by other donors when reform programmes were being drawn up.<sup>41</sup> It was in the practical application of the provisions that conditionality emerged as an intrinsic feature of adjustment programmes. I will return to the implications of this Community interpretation shortly.

### **6.3.3 Institutionalisation of Reform**

The measures identified in support of the consolidation of the reforms centred on the more direct inclusion of civic groups in the implementation of the revised Convention. Those measures were contained in the provisions relating to decentralised cooperation. Both sides readily accepted that the process of democratisation and sociopolitical reform could be considerably enhanced by the involvement of such groups. It was to this end that the entirely new Title of Chapter 2 on Financial Cooperation, in the revised Convention, was devoted to decentralised cooperation. It replaced the three rather general articles, in Lomé IV, on widening participation in cooperation.

The agents engaged in decentralised cooperation had been accorded direct access to Convention funds in Lomé IV. It is apparent from the new articles that considerable attention was given to the role of such

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<sup>41</sup> Ibid., p. 4.

agents. The new provisions, while more expansive than those in Lomé IV, added little of a substantive nature to the original text. One new element which it did add was a much clearer articulation of the authority of the ACP states over the decentralised agents. It stated that projects and programmes undertaken within the framework of decentralised cooperation "shall be subject to the approval of the ACP States".<sup>42</sup>

The provisions included cooperation activities which combined the efforts and resources of both ACP and Community organisations. Annex LXXX of the revised Convention called on the ACP states to take account of the initiatives of decentralised agents in the formulation and implementation of NIPs. It urged them to organise regular consultations with such agents. These measures are formalistic in that they seek to strengthen the role of the agents and their organisation.

As was illustrated by the early example of Haiti and democratisation,<sup>43</sup> the institutionalisation of reform is the result of a process which involves the inculcation of regular practices over time. The inclusion of a sociopolitical dimension in multiple conditionality argued in favour of a wider range of instrumental measures. The Community did not lack prior insight of the need for such a range. The original source of conditionality, the Pisani Memorandum, highlighted the importance of building a network of institutional relations across all sectors:

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<sup>42</sup> Article 251(d) of the revised Fourth Convention of Lomé.

<sup>43</sup> This example is covered in Section **1.1.2**.

the economic, social, cultural, political and the intellectual.<sup>44</sup> This concept of capacity encompassed more than administrative or technical capacity. It recognised the need to build a genuinely institutional capacity. However, the concept was not greatly reflected in the instrumental measures which were proposed.

#### **6.3.4 Practical Measures**

I can now return to the implications of the Community's alternative explanation of the introduction of conditionality through the SAS.<sup>45</sup> One implication is that the examination of instrumental capacity has to go beyond the assessment of the formal provisions of the Convention. It also has to look at the practical steps taken and identified to meet the tasks of conditionality.

First, I need to examine the practical measures employed thus far in the pursuit of conditionality. In the area of sociopolitical conditionality, there have been the various suspensions, under Article 5, dating from that of Haiti.<sup>46</sup> The other steps taken in the social and political sectors were aimed at the promotion of decentralised cooperation. The analysis of these measures revealed that they made very little contribution towards the achievement of their

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<sup>44</sup> This issue is dealt with in Section **2.1.1**, pp.10-12 above.

<sup>45</sup> See Section **6.3.2**.

<sup>46</sup> See Section **6.1.2**, footnote 15.

objectives.<sup>47</sup> Accordingly, the identification and use of practical measures in pursuit of sociopolitical conditionality offer limited scope for study.

My focus, therefore, has to be restricted and concentrate on the practical measures taken in support of structural adjustment as one component of multiple conditionality. Structural adjustment support is the area in which Lomé had a concrete and visible experience. The main instrument of Community action in the SAS has been the general import programmes which were considered to be best suited to the needs of economic liberalisation.<sup>48</sup> The funds for the programmes were provided to the Central Banks of the recipient countries to help finance the purchase of imports. The counterpart funds generated from the sale of the imports have been employed as part of a single, coordinated budget policy to cover public operating and capital expenditure.

This coordinated budget policy enabled the Commission to act in support of essential social services and the maintenance of economic and social infrastructure, as the Convention dictated. The Commission not only allocated resources to national budgets but also encouraged spending on health, education and the maintenance of infrastructure. The Commission has admitted that the focus on budgetary matters entailed an ever-closer involvement in public expenditure reviews in ACP states, often in

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<sup>47</sup> See Chapter 5 above.

<sup>48</sup> European Community, *Community support for structural adjustment...*, op. cit., p. 8.

collaboration with the World Bank.<sup>49</sup>

The practical measures taken in support of the SAS carried certain implications for the various actors participating in their implementation and for their respective capacities to carry out their tasks. The priority in the SAS is for the rapid disbursement of resources while maintaining administrative rigour of the programme. At the level of the Commission, it was recognised that the internal procedures and modalities for decision-making and payment were poorly suited to these requirements.<sup>50</sup> A determined effort has been made by the Commission to remedy this deficiency by rationalising its monitoring and decision-making procedures. The Commission has also sought to develop its expertise in the horizontal themes which are the subject of the SAS e.g., in food security and nutrition, health, education, training and employment.<sup>51</sup>

In the area of coordination, the Commission has been building its instrumental capacity at both the Community and international levels. At the Community level, instruments and implementation procedures were

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<sup>49</sup> Ibid., p. 9.

<sup>50</sup> These shortcomings were stressed in the Reports of the Court of Auditors. See Court of Auditors, Annual Report for the Financial Year 1993, op. cit., pp. 278-280 for some critical comments on the management of the appropriations for the SAS. See also Court of Auditors, Special Report on Import Programmes, op. cit., for more specific comments, also very critical, on the import programmes, the main instrument of the SAS.

<sup>51</sup> European Community, *Community support for structural adjustment...*, op. cit., p. 10.

brought into line with the requirements of the member states. Common Community approaches and strategies were developed in priority sectors e.g., health and agricultural exports. However, the Commission has warned that there has only been limited achievement at this level of coordination.<sup>52</sup>

At the international level, the Commission, through its participation in the Special Programme of Assistance for Africa (SPA), has sought to influence other donors on several key issues. These include the following:

- the link between democracy and adjustment;
- the importance of the internalisation of reforms by striking a correct balance between the social and political consequences of changes caused by economic reforms and the popular expectations raised by the reforms;
- the regional repercussions of national adjustment policies.

The Commission has thus served as a catalyst, within the wider donor group, for the consideration of a more comprehensive set of issues in the process of adjustment. It has also help bring about a greater appreciation of the capacities which are needed to deal with these issues.

In the case of the ACP recipients, instrumental capacity has come mainly from the results of practical measures taken by the Commission to assist them. Such measures include its participation, wherever possible, in the preparation of reform programmes and

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<sup>52</sup> Ibid., p. 11.

particularly in sectoral policies. The assistance provided by the Community to Suriname, which was described earlier,<sup>53</sup> is one example of such participation. The Commission has also helped build ACP capacity at the regional level with an active involvement in three programmes. These were a programme to facilitate intra-regional payments, trade and investment in East and Southern Africa and the Indian Ocean; a reform programme to establish the West African Economic and Monetary Union; and a regional reform programme for the Central African Customs and Economic Union.<sup>54</sup>

#### **6.4 MATCHING OF MEASURES TO TASKS**

The measures taken by the Community, through the Commission, in pursuit of adjustment have been principally based on its own experience and programmes. However, it has also been deeply influenced by the wider examples of structural adjustment undertaken by the ACP states with the MFIs. It has accordingly attempted to draw upon this wider experience to identify potential shortfalls and the remedial measures needed to overcome them. The study of ACP adjustment programmes, undertaken on behalf of

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<sup>53</sup> See Section **5.2**, pp. 225-226.

<sup>54</sup> European Commission, *Community support for structural adjustment...*, op. cit., p. 14. These are recent programmes which are intended to help with adjustment at the regional level. They are thus examined as aspects of instrumental, rather than operational, capacity.

the Commission,<sup>55</sup> identified four major characteristics which helped explain the unsatisfactory results of such programmes. Adjustment was informal and "borrowed" while policy was thwarted and myopic.<sup>56</sup>

#### **6.4.1 Informal Adjustment**

The informal sector in most ACP economies has grown under adjustment. The sector is subject to little control by official regulations and is not capital-intensive. It therefore demonstrates a high flexibility in production costs and can respond rapidly to developments in the market. The study underscored the serious problems which African states face from the relative, and sometimes absolute, shrinkage in the modern sector resulting from adjustment. It is the modern sector which provides the main source of revenue for the state. It is the growth in this sector which underwrites the provision of basic services and infrastructure required for overall economic development.<sup>57</sup> Consequently, the expansion of the informal sector, at its expense, has had a detrimental effect on the results of adjustment programmes.

#### **6.4.2 Thwarted Adjustment Policy**

The policies of structural adjustment were designed to address different economic situations in

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<sup>55</sup> Patrick and Sylviane Guillaumont eds. *Adjustment and Development: The experience of ACP countries*, op. cit.

<sup>56</sup> Ibid., especially Chapter 2.

<sup>57</sup> Ibid., p. 58.



ACP states which were due, in part, to exogenous factors. The ACP countries were affected in the 1980s, the period under study, by both internal and external shocks. The internal shocks, the study indicated, included important climatic changes affecting agriculture. They also included the early stages of democratisation which adversely affected the implementation of economic policy.<sup>58</sup> The main external shocks to ACP states consisted of deteriorating terms of trade; the impact of volatile exchange rates in major currencies resulting from the opening up of their economies; and a fall in net remittances from abroad.<sup>59</sup> Adjustment policy was thwarted because these adverse factors persisted, despite the implementation of the corrective policies.

#### **6.4.3 Myopic Adjustment Policy**

The main drawback in adjustment was an over-emphasis on short-term policy to the detriment of more long-term measures. The three main features of standard adjustment programmes are complementary. The features are macroeconomic stabilisation, the correction of relative prices and the improvement of productivity.<sup>60</sup> Priority has customarily been given, first, to stabilisation, then to the correction of price distortions and, only then, to productivity. The last feature has remained a minor concern relative to the other two.

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<sup>58</sup> Ibid., pp. 58-59.

<sup>59</sup> Ibid., pp. 62-64.

<sup>60</sup> Ibid., pp. 68-69.

The bias in emphasis, on the correction of relative prices over increased productivity, has posed fundamental problems for ACP economies which are typically small and poor. One example of the problems stems from the ritual recommendation of devaluation as a contribution to price correction. The smaller the economy, the higher is its ratio of imports and the more price-sensitive are general prices to nominal increases in import prices.<sup>61</sup> Devaluation, as a step towards price correction, can thus prove inflationary. The study contended that the three basic components of adjustment policies are usually affected, and often in conflicting ways, by policy choices. In order to avoid such conflicts, authorities have to make policy trade-offs between the components. The choices result in the ranking of stabilisation over price corrections and of both over productivity increases.

One primary reason for the ranking is to be found in the initial conditions facing the countries in adjustment. The severity of the economic situation determines the sequence of policies while the slowness of the implementation of reforms is related to their administrative complexities. Reductions in certain expenditures or change in a tax, customs duty or even currency rate is relatively easy to carry out. It is much more difficult and time-consuming to restructure a state-owned company or change trade regulations. The time involved in accomplishing the latter is not just the time to implement the reform but also the time it takes to produce results.<sup>62</sup> The choice in such a

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<sup>61</sup> Ibid., p. 70.

<sup>62</sup> Ibid., p. 82.

situation is for the short-term policy measure.

This dilemma is compounded by the nature of donor conditionality in which adjustment aid is used for rapid disbursement aid. The demand is that recipients take immediate measures and meet macroeconomic performance criteria before they can benefit from subsequent disbursements. There has been an implied preference of the donors and a clear policy choice for the recipient state. It is for measures producing quick results and for those most likely to impact rapidly on the macroeconomic situation.<sup>63</sup>

#### **6.4.4 "Borrowed" Adjustment**

Adjustment programmes are not sufficiently managed by ACP countries as their own programmes. They are perceived by the ACP countries as imported and are not internalised by the recipient states. There are three principal reasons for the unwillingness of the recipients to adopt the programmes as their own. The first is due to the technical uncertainties of the recommended policies, some of which have been mentioned above. The second is the difficulties faced in overcoming vested interests opposed to measures which reduce their economic benefits. The third is based on the relations between the recipients and donors.<sup>64</sup>

In the last respect, the study contended that conditionality has often been used as an exercise in "make-believe". In this image, the recipients, and

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<sup>63</sup> Ibid., pp. 82-83.

<sup>64</sup> Ibid., pp. 84-85.

often the donors, know that the agreed conditions cannot, or will not, be met. Alternatively, the conditions are only agreed to secure the first tranche when it is apparent that the conditions for a second will not be fulfilled. One such example was the case of Côte d'Ivoire where the authorities agreed conditions merely to obtain the first instalment of its sectoral adjustment loan from the World Bank.<sup>65</sup>

Another variant of the "make-believe" exercise occurs when a programme is only partially pursued in its easiest or most visible areas, thus compromising the overall coherence of the programme and leading to failure. An example of this type was Senegal's new industrial policy, the coherence of which was ruined by partial implementation. The policy required reforms in both trade and labour regulations. The removal of trade protection was achieved but the labour regulations proved more difficult to change. Businesses, finding themselves unable to retrench staff, had to close.<sup>66</sup> The industrial policy subsequently failed.

#### **6.4.5 Implications of Critique**

The Community has thus been made aware of the difficulties in implementation of ACP adjustment programmes, an unavoidable element of the reforms sought by multiple conditionality. The Commission has accordingly outlined further measures, in three areas, aimed at meeting these difficulties: the consolidation

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<sup>65</sup> Ibid., pp. 85-86.

<sup>66</sup> Ibid., p.87.

of Community action;<sup>67</sup> the deepening of such action; and its broadening.

Consolidation of Community action: The Community, in reaction to the critique of the traditional approach to adjustment, attempted to consolidate its own approach. It reaffirmed its key policy emphases: the social dimension; the pace of reform; the regional dimension; adapting reforms to the specific requirements of individual countries; internalisation of the programme in the recipient country; and realistic conditions.<sup>68</sup>

The Commission has sought to ensure, at donor level, that recommendations made in the context of the SPA would focus on the on the pace and sequence of reforms. It has also insisted that conditionality be structured in line with the particular requirements of the individual countries. At the level of the recipients, the Commission has tried to promote internalisation of the adjustment process through analyses of national planning, decision-making and implementation capacities. In other words, the Community has identified, as one priority, the development of some aspects of institutional capacity.

Deepening of the Adjustment Process: The

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<sup>67</sup> A distinction has to be made here between this "consolidation" of Community action and the "consolidation" or institutionalisation of reform as described earlier. In this instance, the Community is attempting to ensure that the main priorities of its approach are generally accepted, by the other donors, as the basis of adjustment programmes.

<sup>68</sup> European Commission, *Community support for structural adjustment...*, op. cit., p. 19.

deepening of the process is designed to achieve some long-term objectives. These objectives are the development of human resources, rebuilding the supply side and regenerating healthy social and economic environments. It concentrates on two main actions. The first is to strike a correct balance between spending in support of investment reform and that in support of financial restructuring and economic reform. This balance in spending priorities is an attempt to avoid another example of the trade-offs illustrative of myopic adjustment policy.<sup>69</sup> The second action is to improve the structure of public finance and integrate national planning into the regional framework.

The objective in public finance is to help develop the priority social sectors. It hopes to achieve this objective by placing emphasis on the sectoral approach and using counterpart funds in national budgets to that end. A complementary policy of assessing and monitoring public expenditure would also be pursued. The overall policy is expected to encourage supply and production through better management of a state's relations with its suppliers and the restoration of the confidence of the business sector.

The integration of national adjustment programmes into a regional framework is intended, first, to circumvent the limitations of small national markets. The second objective is to build a wider economic base against the adverse impact of pressures on the national economy. A third aim is to create a regional

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<sup>69</sup> Such policy trade-offs are discussed above in Section **6.4.3**

dynamic which might help the re-integration of ACP states into the global economy. An additional expected benefit is the use of adjustment as an incentive to the regional integration process.<sup>70</sup>

Broadening of Community action: The broadening of Community measures will consist of adapting existing instruments and procedures, the identification of new types of cooperation and a re-orientation of the approach to conditionality. The adaptation of instruments includes the provision of targeted budget support for those countries with liberalised foreign trade and freely convertible and transferable currency. It also involves a less restrictive use of counterpart funds as an incentive. The extension of this incentive is dependent on a favourable outcome of the public expenditure reviews used to check programme and budget implementation. The third aspect of adaptation is the decentralisation of implementation monitoring. The general objective of adaptation is to create greater consistency in the operational integration of all Community instruments including NIPs, the SAS, Stabex and food aid. The increased integration of the instruments also aims to build a critical mass of conditionality and financial activities in the Convention.<sup>71</sup>

One potentially new type of cooperation which is being considered is in monetary arrangements at the regional level. There, regional integration could be undertaken in pursuit of stable exchange rates and greater convertibility. The goal is not monetary

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<sup>70</sup> Ibid., p. 20.

<sup>71</sup> Ibid., p. 21.

integration but the provision of EC expertise in an area which could make a meaningful contribution to stability and growth.<sup>72</sup>

The new approach to conditionality is based on a desire to add an increased sense of realism to the definition of conditionality. The emphasis would be on replacing the current model based on specific instruments with one based on programmes.<sup>73</sup> Specific measures would be only one component of general economic policy agreements centred around a medium-term programme. "Adjustable" factors would be introduced. They would allow economic policy to be fashioned in response to developments in the national or international environment. The new approach would mean assessing the real aptitude of recipients to undertake reforms in light of the social, political and other constraints on economic policy-making.

Finally, the Community has called for an increased coordination effort among Community members, recipient countries and European members of the boards of the Bretton Woods institutions (MFIs). It makes this call not with the intention to question the leadership of the MFIs but rather to increase the Community's influence in efforts to improve the adjustment process.<sup>74</sup>

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<sup>72</sup> Ibid., p. 21.

<sup>73</sup> Ibid., p. 22.

<sup>74</sup> Ibid., p. 22.



## 6.5 SUGGESTIONS FOR IMPROVEMENT

The distinct impression gained from the examination of the practical and proposed measures in instrumental capacity is that the sole impetus has come from the Community, with little positive contribution from the ACP. This conclusion is justified by the fact that there is very little which can be traced to an ACP intervention. However, there are suggestions for potential improvements to be had, by drawing on other approaches to development programming.

These suggestions reflect the fact that the instrumental measures proposed are mainly administrative and technical. They lack an appreciation of the need, and the task, of generating capacity to meet sociopolitical conditionality. There is no accurate science available to apply to this task which requires an intuitive approach. It is in appreciation of the uncertain nature of the task that I propose suggestions which, by themselves, cannot guarantee success. What they can do is to help encourage the process of reform and the involvement of sociopolitical agents. They will thus contribute to the creation of an enabling environment.

First, I return to Israel's study on institutional development in World Bank projects.<sup>75</sup> He postulated that the successful implementation of projects depended, to a significant extent, on their levels of specificity. Specificity, in Israel's terms,

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<sup>75</sup> Arturo Israel, *Institutional Development: Incentives to Performance*, cp. cit.

consists of two main elements. The first element is the degree to which it is possible to specify the objectives of a particular activity, the methods for achieving the objectives and the ways of controlling their achievement. The second element is the manner in which the activity affects the participating actors. High-specificity activities display more intense, immediate, identifiable and focused effects. Such activities include those in finance, industry and high technology. Low-specificity activities demonstrate weaker, more delayed and more diffuse effects. They include activities involving human behaviour i.e. social or "people-oriented" activities such as agricultural extension, educational counselling or personnel management.<sup>76</sup>

The ready applicability of the concept of specificity to multiple conditionality is soon apparent. As matters of high specificity, Israel identifies activities such the enactment of trade measures and some financial reforms e.g., exchange rate changes.<sup>77</sup> The objectives of the reforms, the methods to be employed and the manner of their control can be listed with precision. Performance in their implementation can be directly attributable to those involved. Cases of low-specificity include those dependent on human behaviour related to agriculture, education, health and social and political activities.

This distinction between high and low specificity is not foreign to Community thinking. The study, undertaken on behalf of the Commission, alluded to

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<sup>76</sup> Ibid., pp. 48-49.

<sup>77</sup> Ibid., pp. 49-52.

it.<sup>78</sup> It placed emphasis on the policy choices or trade-offs made between stabilisation measures in trade and finance and the delayed effects of those aimed at increased productivity. The example, cited earlier, of the failure of Senegal's new industrial policy is a graphic example.<sup>79</sup> The easier task was the achievement of the high-specificity activities, the removal of quantitative restrictions and lowering of customs duties. The socially and politically-oriented activity, the low-specificity change in labour regulations, proved to be the insuperable obstacle.

The contribution which the concept of specificity makes to the implementation of multiple conditionality is the recognition that the linkage of sociopolitical and economic conditions involves two sets of activities, with differing levels of specificity. The sociopolitical conditionalities of democratisation and good governance are low-specificity activities. Equally important is the fact that there is a further distinction within the economic programme. This secondary distinction is between high-specificity stabilisation measures and the low-specificity activities such as the restructuring of trade and financial agencies.

The specificity concept further suggests that the dimension of time assumes a critical importance in two senses. In the first sense, it relates to planning and the length of time for which an objective can be specified. Those activities which depend on human and

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<sup>78</sup> See Patrick and Sylviane Guillaumont, *Adjustment and Development...*, op. cit., p. 82.

<sup>79</sup> See Section **6.4.4.**

political behaviour or climatic conditions (e.g., agriculture) are not readily amenable to long-term planning. Secondly, the implementation of activities which are more diffuse in their objectives and spread across several sectors will demand a longer time-frame in which to gauge their impact. The measurement of the effectiveness of reforms arising from sociopolitical conditionality can only be made after a longer period of time than is set for certain economic activities. The overall process of multiple conditionality will have to be disaggregated into separate elements to allow for the reaction lag between economic and sociopolitical reforms.

A second set of suggestions is derived from this need for disaggregated responses. They are based on the traditional and alternative approaches.<sup>80</sup> They also reflect a stated concern of the Commission. All three approaches emphasise the need for the combined efforts of public, private and voluntary agencies in the implementation of reform. Israel's traditional approach identified "surrogate" agents of competitiveness. These competition surrogates - political authorities, non-governmental agencies and private sector interests - can be used to exert varying but complementary forms of influence on those involved in the implementation of projects.<sup>81</sup>

The alternative approach advocates the use of community-based expertise and organisations as a base

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<sup>80</sup> The different approaches are discussed at the beginning of this Chapter. See Section **6.1.1**.

<sup>81</sup> Israel, *Institutional Development...*, op. cit., pp. 89-92.

for implementation, before adding the contributions of formal agencies of government, the private sector and NGOs.<sup>82</sup> It concedes that sociopolitical institutionalisation is not a predictable process, the success of which can be guaranteed in advance. It is, therefore, based on the creation of an enabling environment which generates the conditions supportive of the process. The Commission itself called for the institutionalisation of cooperation between the public sector, business associations, trade unions and more informal associations such as farmer groups.<sup>83</sup>

In spite of the apparent consensus on the value of collective action, I still need to underline the importance of involving sociopolitical agents in the implementation of conditionality. The lessons of decentralised cooperation and private sector programmes in Lomé III strongly indicate that the performance of such agents needs to be drastically improved.<sup>84</sup> Their involvement has to be directly and actively encouraged. A further consideration stems from the criticism, in the context of the SAS, that there is an overwhelming emphasis on the statal approach to ACP-EU relations.<sup>85</sup> This emphasis has resulted in the marginalisation of non-state actors and the alienation of SAS target groups. It is an

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<sup>82</sup> See Hyden, "Creating an Enabling Environment", op. cit., p. 75.

<sup>83</sup> European Commission, *The Design of Economic Reform in the Context of Political Liberalization...*, op. cit., p. 21.

<sup>84</sup> See Section **5.5.2** above.

<sup>85</sup> "European Union and Structural Adjustment", op. cit., p. 8.

emphasis which further obstructs the involvement of sociopolitical agents and lends credence to the need for measures of active support for such agents.

## 6.6 CONCLUSION

Instrumental capacity, as fashioned by the Community, has taken account of nearly all the possible considerations: the sequencing of conditionalities; the internalisation of reforms; and the political process of policy reform. In its approach to multiple conditionality, the Community tried to bring a wider appreciation of the balances to be struck. It was particularly conscious of that between the needs for economic and political reforms and the constraints posed by the social and political liberalisation process.

Nonetheless, the Community's attempts to build up instrumental capacity do suffer from two inherent contradictions. The first contradiction lies in the imposition of increased conditionalities by adding sociopolitical to the economic elements. The Commission has acknowledged the limitations of conditionality. Conditionality and pressure from donors have been fairly successful in initiating reform programmes. They have been far less so in deepening economic reforms or in helping with complex political and administrative reforms.<sup>86</sup>

The Commission also cautions against excessive reliance on conditionality. The risk it poses is that

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<sup>86</sup> European Commission, *The Design of Economic Reforms...*, op. cit., pp. 17-18.

of creating a bias against the more complicated institutional reforms in favour of "one-shot" stabilisation measures.<sup>87</sup> Too many conditions in adjustment programmes help to cast doubt on the ability of countries with weaker capacity to manage the process. The number of conditions brings into question the capacity of donors and the MFIs to manage conditionality and its follow-up. The desire for short-term measures is also encouraged by the fact that the disbursement of subsequent tranches of assistance are often dependent on the demonstration of quick results. These are all concerns expressed by the Commission about the sheer weight of conditions in adjustment. In the light of its concerns, the decision by the Community to introduce additional conditionalities, beyond the economic, would appear to fly in the face of its own reasoning. It would seem also to compound the ACP problems of managing the demands which the additions pose.

The second, and more fundamental, contradiction stems from the centrality of adjustment in multiple conditionality. The Commission has insisted that there can only be only one adjustment programme, that of the MFIs. It is thus erecting multiple conditionality on the base of existing MFI adjustment programmes. The first contradictory element is the fact that the Community recognises the shortcomings of MFI programme but, nonetheless, uses those flawed programmes as the centrepiece of its reforms.

The other element is drawn from the fact that the Community has campaigned for several initiatives

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<sup>87</sup> Ibid., pp. 18-19.

intended to improve the effectiveness of MFI programmes. However, the success of its initiatives are not dependent on its own efforts. The Community may well be aware of the improvements required in adjustment programmes but its approach is based on effecting those improvements through the policy debate among the donors. The success of its initiatives, therefore, depends on whether the Commission, as the representative of the Community, will be able to exert a persuasive influence on other donors. The ability of the Commission to do so successfully remains an open question.

The instrumental measures of the Commission also suffer from a basic defect. Their intent is to further multiple conditionality but their scope primarily covers economic adjustment. Lost in the approach is the appreciation of how to build capacity to deal with the sociopolitical elements of conditionality. The consequence has been that the instrumental measures do not effectively address the need to meet the demands of sociopolitical reform. The suggestions which I have made represent one possible base upon which to build such an effort.



**PART THREE**

## CHAPTER 7

### CONCLUSION: A TALE OF TWO LEGACIES

My research, in Chapter 2 of this thesis, has shown that the origin of multiple conditionality lay in the Pisani Memorandum. The path from the initial proposal to multiple conditionality was certainly assisted by several influences. Some of these influences emanated from global trends external to the Lomé relationship but the decisive factors were developments within the relationship. The roots of conditionality unquestionably lay in the Memorandum and its advocacy of policy dialogue. This thesis is thus a tale of the legacy bequeathed by the Pisani Memorandum. This legacy was its prescription of "inverted conditionality" through the dialogue.<sup>1</sup> It is also an analysis of the application of the prescription through the history of the emergence of multiple conditionality.

The examination of this history reveals that the two sides, to differing degrees, failed to generate the capabilities necessary to execute the policy. This recognition underlines a largely obscured fact: there were two legacies of the Pisani Memorandum. The Memorandum had identified the policy objective, the instrument and the means for pursuing its implementation.<sup>2</sup>

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<sup>1</sup> See Section 2.1.1 above for a discussion of the conceptual origins of conditionality.

<sup>2</sup> These three aspects of the Memorandum are discussed in Section 2.1.1.

The instrument identified by the Memorandum was the establishment of a policy dialogue to ensure sectoral coherence programmes. The means was the building of institutional capacity to help overcome the problems of development.<sup>3</sup> This concept of capacity included three aspects: the administrative element; a "multiple network of economic, social, cultural, political and intellectual relations"; and its adaptability to the local conditions of the recipient state.

The second legacy of the Memorandum needs to be taken in conjunction with the first. If conditionality was to lead to effective development, it had to be accompanied by an effort to generate the requisite institutional capacity. The tale has thus come full circle. The Pisani Memorandum did contain the germ of multiple conditionality. It also identified the conditions needed to achieve the objective behind conditionality, i.e., development. The Memorandum thus bequeathed policy objective, instrument and means. This thesis has revealed that the legacy which was claimed by the two parties consisted of the objective and the instrument in the form of the policy dialogue. Together, they constitute the legacy of multiple conditionality. The second legacy of institutional capacity, the means, was ignored by them both.

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<sup>3</sup> See Section 2.1.1 for an outline of the message of the Pisani Memorandum where I draw the distinction between the policy objective and the means proposed in the document. I also elaborate on the forms of capacity which Pisani identified as essential.

## 7.1 LEGACY INHERITED

I will focus first on the visible history. The analysis of the origins of conditionality generated a set of conclusions which had an overall significance on the relationship.<sup>4</sup> They also had a direct impact on the areas of capacity which were examined. The ACP Group failed repeatedly to perceive, accurately and in a timely fashion, the developments which signalled the introduction of multiple conditionality. It was a failure which cost the Group dearly. The Group was made captive of changing conditions, both unable to anticipate and to react to them. Secondly, the ACP's failure helped to convince the Community that it could readily ignore the objections of the ACP to its plans.

In the analysis of bargaining capacity in Chapter 3, the effect of the ACP's inadequate reaction was noticeable in two principal forms. Its lack of anticipation forced it into a reactive posture whereby it ceded the negotiating initiative and the agenda to the Community. The ACP also failed to build a countervailing power to the EU's strength as part of its negotiating strategy. It was not able to fashion durable alliances, on Lomé matters, with the European Parliamentarians, to cite just one example. Nor did the Group manage to establish an external projection as a means of building strengths outside the relationship.

The assessment of bargaining capacity demonstrated the clear superiority of the EU over the

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<sup>4</sup> See Section 2.6.

ACP in the critical area of negotiation. It suggested that the ACP would be unable to negotiate effectively the basic guidelines of a conditionality programme. This point was exemplified by the case study, in Chapter 4, of the negotiations on multiple conditionality in the Mid-Term Review. The study illustrated the inherent weakness of ACP bargaining capacity. It also helped to highlight the fact that the capacity of the Group was further weakened by internal disagreement. In the case of conditionality, as in that of Stabex, there were ACP states which saw the Community's position offering them greater benefit than did that of their own Group.<sup>5</sup> These states served as an internal pressure against a unified ACP negotiating stance.

The study of the origins of conditionality offered two additional conclusions which were relevant to the examination of operational capacity. The first was that the EU exercised almost total operational control of the Convention. Above all, it did so through its interpretation of the provisions governing the Convention. The analysis of operational capacity, in Chapter 5, indicated that control was augmented by the Commission's greater command of resources. Its control was further consolidated by its responsibility for the financial and overall management of Lomé.

The second relevant conclusion was that the ACP Group suffered from an organisational gap. The gap was reflected in differences in perception between ACP

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<sup>5</sup> This point is dealt with in Chapter 2. See Section 2.1.4 for the treatment of Stabex while the case of conditionality is covered in Section 2.4.2.

decision-makers in the capitals and the representatives in Brussels. It was often visible in the context of negotiations<sup>6</sup> but it also had a wide impact on the operational capacity of the Group. The examples which give evidence of the gap in a bargaining context were primarily areas of operational capacity. This was true of the regional programme in the Caribbean<sup>7</sup> as it was of the FMOs governing the use of Stabex resources.<sup>8</sup>

My study indicated that the ACP had enhanced its operational capacity in some areas. However, the improvement was limited to a few areas which were Convention-related and mainly confined to the trade sector. This improvement was certainly not observed in other sectors of the Convention, such as those in finance cooperation, which were more closely related to the areas covered by conditionality. Moreover, the ACP Group demonstrated a lack of the necessary flexibility to meet changing conditions in the relationship. This deficiency was reflected in the reaction of the Group to changes, emanating from both internal and external factors.<sup>9</sup>

There were indications that the operational

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<sup>6</sup> See Section **3.2.1** for a discussion of the problems which arise from this gap and its impact on continuity. It is also covered in Section **3.2.3** where its impact on suasion is examined.

<sup>7</sup> See Section **2.1.2**.

<sup>8</sup> See Sections **2.1.4** and **2.4.3**.

<sup>9</sup> See Section **5.6** for a discussion of the adaptability of the ACP Group to three changes in the relationship: the FMOs in Stabex; the global trade regime; and sectoral emphases and rigour in Lomé IV.

capacity of the EU, despite its clear superiority, also suffered from limitations. The Commission faced constraints on staffing levels and a rationalisation of its Delegation offices. The record of implementation of decentralised cooperation i.e., the sociopolitical aspects of the Convention, was acknowledged to be poor.<sup>10</sup> The record reflected the complexity of those forms of cooperation as well as the lack of EU experience in dealing with them. They are, it should be noted, some of the areas directly related to multiple conditionality: they include support of the private sector and programmes dealing with civil society.

The examination of operational capacity drew attention to a critical feature. The procedures of implementation followed by the EU did not include a strong emphasis on capacity-building in the ACP states. The concept of strengthening ACP capacity was not identified as a major objective. Where there was provision for capacity, it normally took the form of technical assistance supplied by Community experts. The Commission did make some efforts to help strengthen ACP capacity but those efforts were selective and not consciously designed.<sup>11</sup> Its efforts corresponded to only one aspect of capacity, as identified by the Pisani Memorandum, in that they sought to strengthen administrative capacity. They took no account of the wider dimensions of capacity

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<sup>10</sup> Decentralised cooperation is covered in Section 5.5.2.

<sup>11</sup> See Section 5.2 where I discuss the efforts of the Community at institution-building in its cooperation with the ACP.

which the Memorandum advanced in its multiple network of relations.

More importantly, there was an increasing tendency, on the part of the Commission, to assume more and more responsibility for implementation. By the time of the Mid-Term Review, the Community was reconsidering the effectiveness of even its sporadic earlier efforts. A major plank of the Community's negotiating position for the Review was based on the need to overcome ACP ineffectiveness in implementation. The way to achieve that goal, for the Community, was to increase the authority of the Commission.<sup>12</sup> The ACP's lack of capacity, in the view of the Community, was a major obstacle to effective joint management of the Convention. The latter's selective responses at capacity-building were not sufficient to overcome the obstacle. The recourse chosen was to reduce future obstacles by reducing ACP control and involvement. The Community's proposals might not have been agreed in the negotiations but their intent was unmistakable.

There was a more general conclusion to be drawn from the issue of ACP capacity-building. Neither party had seen the strengthening of ACP capacity as a priority during the implementation of the Conventions. The ACP had never consciously catered for capacity-building in its approach to Lomé while the Community lacked a systematic approach in its efforts. Thus, when obstacles were perceived in the process, the Community faced two choices. The first was to assume greater responsibility by providing more technical

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<sup>12</sup> See Section **5.5.2**.



assistance. The alternative was to help build the capabilities of the ACP states to carry out their tasks more efficiently.

It was here that experience and customary practice prevailed. There had never been an explicit focus in the Conventions on building institutional capacity. It was, therefore, not to be expected that such a focus would arise at that point. The only viable option, for the Community, was retrenchment i.e., a retreat from joint management. Rather than help to build ACP operational capacity, the EU has devoted its recent efforts to reducing the Group's role in the management of the Convention.

The contribution of the ACP Group to instrumental capacity was negligible. The measures intended to give effect to multiple conditionality were entirely the work of the Community. Instrumental capacity relates to plans, projections and future actions to be taken. Its examination in Chapter 6 showed that the proposals of the Commission reflected an awareness of the need to build ACP capacity in areas related to the objectives of conditionality. The proposals in its differentiated approach also stressed the importance of adapting conditions to take account of local realities in the country affected.

This emphasis in the proposals begs the question of whether the Community had, albeit belatedly, come to recognise the importance of capacity-building. In one sense, it had done so but that was in a restricted context. The Community was subscribing to what was a common feature of all conditionality programmes under adjustment. The logic was that, if the developing

country was to benefit from adjustment, then it had to acquire greater capabilities in the areas affected by adjustment. Administrative reform and enhanced managerial skills were standard objectives of structural adjustment. The Community was, in effect, doing no more than adhering to the traditional programme prescriptions. The emphases thus need to be viewed in the specific context of adjustment, if their promotion was to be properly evaluated.

One achievement of this explicit emphasis on capacity-building was to highlight the fact that it had not been a commonly espoused feature of regular ACP-EU cooperation. The restriction of its use to the traditional adjustment context also underlined an additional fact. It was that the Commission had much less to propose in the more complex area of socio-political conditionality. The Commission's approach to the building of institutional capacity remained rooted in the functional areas of public sector reform and the strengthening of organisations.<sup>13</sup> The approach made allowance for the promotion of democracy and human rights and the establishment of the rule of law. It was, however, largely silent on ways of attaining those objectives. It was in that latter respect that the concepts of specificity and an enabling environment were suggested as possible avenues for exploration.<sup>14</sup>

The consideration of instrumental measures brought forth some inherent contradictions. They

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<sup>13</sup> This point is stressed in the two previous Chapters. See, for example, Section **5.2**.

<sup>14</sup> See Section **6.5** on Suggestions for Improvement.

centred on two main features. The first was that the Commission had often cited the negative effect of placing too many conditions on developing countries in adjustment.<sup>15</sup> Notwithstanding that recognition, the essence of multiple conditionality was a further addition to the conditionalities of adjustment. The addition was, of course, the political and social conditions of good governance. The second basic feature lay in the admission by the Community that its own conditionality programme was interlinked with efforts of other donors. The admission meant that the success of the Community's quest for a differentiated approach was not solely the function of its own efforts. It was dependent on a debate with the other donors to obtain their approval and cooperation. The outcome of that debate remains uncertain.

## **7.2 LEGACY IGNORED**

The second legacy of the Pisani Memorandum provides the missing element in this tale. My research, thus far, has mainly been of the experience of conditionality as the more perceptible legacy of the Memorandum. The examination has to be completed by a treatment of the other legacy, its focus on capacity. I will thus return to the origins of conditionality to seek to explain why the emphasis on capacity was lost.

I need to recall the context in which the original Community proposal for policy dialogue in the Pisani Memorandum was made. It occurred at the time of

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<sup>15</sup> Section **6.7** outlines the Commission's concerns about the use of excessive conditionalities.

the negotiations for Lomé III and was seen as a defining moment for the future direction of ACP-EU cooperation. The question of the *acquis* and the control of the ACP states over their development were major concerns.<sup>16</sup> What the ensuing struggle managed to do was to focus the attentions of both sides on the policy implications of the proposal and thus on the policy element of the Memorandum.

The fact that the Community was initially unsuccessful only served to broaden its attention to policy in two ways. The Community saw the loss as a defeat on a fundamental principle and concentrated its efforts on reversing it. Its subsequent efforts were, as detailed in Chapter 2, devoted to wresting control, from the ACP, of the policy initiative in their cooperation. The importance of policy dialogue was mainly due to this focus on policy control. It was an instrument of both effective development and operational control. The Community's vision on the wider message of the Pisani Memorandum - the stress on the critical import of capacity to development - was obscured by the policy focus. The Community was literally unable to see the forest of development for the trees of policy control.

The attention of the Community to policy control was sharpened in another way. The struggle over policy dialogue was, as noted, a battle for policy control. It was, in short, a determination of where the power in the relationship lay. The Community wished to

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<sup>16</sup> See the *Chapeau* to Chapter 2 and Section 2.1 for a wider discussion of the implications of the proposal.

ensure that it set the operating parameters for the Convention. Thus, as the study of bargaining capacity showed, it sought to control the negotiating agenda and the rules of the relationship.<sup>17</sup> Against that background, the building of the institutional capacities of its adversary was likely to be a very low priority for the Community. That was, indeed, the conclusion drawn from the analysis of operational capacity.<sup>18</sup> The second message of the Memorandum was thus further submerged under the consequences of the first message.

Another ramification of the emphasis on policy control was to be seen in the Community's operational control of the Convention. The trail from policy dialogue to multiple conditionality has been stressed. There was also another parallel trail towards the centralisation of operational control in the Commission services in Brussels. This was a principal aim of the various changes in procedures and programming proposed, in the Mid-Term Review, by the Community.<sup>19</sup>

The Community's commitment to centralisation in Brussels was so strong that it sought to remove responsibilities from the Commission Delegations in ACP states. Its determination was particularly evident in its attempt to withdraw the authority of the

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<sup>17</sup> See Section **3.2.2** above.

<sup>18</sup> See Section **5.2**.

<sup>19</sup> These changes and some implications are discussed at several points above. See Sections **2.2.4**; **4.5**; **5.5.1** and **5.5.2**.

Delegate to draw up financing proposals for projects.<sup>20</sup> The quest for centralisation was most visible in the growing Community tendency to assume wider responsibility for project implementation.<sup>21</sup> Policy control, to the Community, signified total control, both of the policy and of the operations of the Convention.

The ACP states, for their part, had managed to see off policy dialogue and, with it, the Community's attempts at undermining their sovereign control of their development. They were totally unwilling to hear any other message from the source of their concern, the Pisani Memorandum. The ACP states paid little or no attention to the second legacy of the Memorandum. Any message about capacity was, therefore, lost on them as a Group.

The subsequent developments leading to the emergence of conditionality took very little account of capacity. The attention of both sides had turned away from the second message of the Memorandum. Where the enhancement of ACP management capabilities was espoused in the cooperation, it was primarily for the purpose of carrying out a specific programme. The first choice of the Commission, in such circumstances, was for the use of technical assistance. It was a policy which gave rise to complications: the ACP had grave reservations about the bias towards European

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<sup>20</sup> This issue is treated in Section **5.5.2**.

<sup>21</sup> See, especially, the Conclusions of Chapter **5** in Section **5.7**

expertise in the provision of technical assistance.<sup>22</sup>

The examination of operational capacity reflected the reality that capacity was a largely ignored element in the relationship. It also drew attention to an aspect which was important for both operational and instrumental capacity. The second message of the Pisani Memorandum underlined the centrality of capacity to development *per se*, not merely to conditionality. It therefore dealt with a broad definition of capacity, spanning both administrative and sociopolitical aspects. Not only was the general message on the importance of capacity lost, so too were the nuances of capacity in the Memorandum.<sup>23</sup> The contribution of capacity to the overall task of ACP development was not explored in building operational areas. The appreciation of capacity-building, from a sociopolitical perspective, was also missing in the measures covering instrumental capacity. The failure to claim the second legacy of the Pisani Memorandum thus impacted directly on the present task before the Lomé partners, that of implementing multiple conditionality.

### **7.3 QUESTIONS RAISED**

At the outset of this thesis, I noted that I would need to respond to a series of questions. These questions can now be addressed in the light of the full tale of institutional capacity and multiple conditionality. I propose to respond to each of these

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<sup>22</sup> The issue of technical assistance is treated in Section **5.5.1**.

<sup>23</sup> See Section **2.1.1**.

questions before turning to the central concern of the thesis.

### **7.3.1      Conditionality: Abrupt Change or Evolution?**

The first set of questions related to the introduction of multiple conditionality, in terms of its nature and the process of introduction. The examination of the origins of multiple conditionality revealed that the process began much earlier than has been commonly believed. It began, in an unobtrusive manner, with the unsuccessful Pisani proposal for a policy dialogue during the negotiations for Lomé III. From a Community perspective, this initial effort evolved naturally in stages to conditionality. The introduction of structural adjustment support (SAS) in Lomé IV and the frameworks of mutual obligations of Stabex were stages based on the internal workings of the Convention. The three building blocks of multiple conditionality<sup>24</sup> represented, simultaneously, a response to tighter aid accountability globally and greater Community rigour within the Convention.

The ACP perceived the developments as a less natural evolution. Its perception was unduly coloured by two shortcomings of its own. The first was the Group's failure to assess accurately the nature and implication of each stage of the evolutionary process. The second was its own willingness to extend the scope

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<sup>24</sup> The three blocks - the Marín-Matutes paper; the Commission's overview of Development to the Year 2000; and the Pons Grau Report to the Joint Assembly - are examined in Sections **2.2.1**; **2.2.2**; and **2.2.3** respectively.



of Lomé to encompass social and political dimensions. This flawed ACP perception also prevented the Group from presenting a coherent and effective response to the Community's progress to multiple conditionality.

. The examination of the two messages of the Pisani Memorandum allows me to add to the conclusions of Chapter 1. The legacy claimed from the Memorandum was that of the policy prescription which led to multiple conditionality. This focus, along with the failure to grasp the second message, resulted in an orientation in Lomé towards the control of policy. The Community enjoyed an asymmetrically greater capacity which enabled it to exercise much more influence on policy. This control allowed it to direct the evolution to, and the shape of, multiple conditionality. The failure to heed adequately the second legacy of capacity also set the stage for a subsequent failure: that of either side to promote capacity-building as a component of cooperation.

### **7.3.2 Imposition or Scope for Manoeuvre?**

A second series of questions concerned the demands of multiple conditionality. Was the introduction a mere imposition by the Community or did the ACP retain some scope for manoeuvre in the face of multiple conditionality? The response to this set of questions is more complex. The Community was conscious of its greater bargaining and operational capacity in the relationship. However, it also recognised that the success of multiple conditionality required ACP participation in its implementation. There was thus a need to involve the ACP states in a form of dialogue or bargaining on conditionality, if it was to be

effective.

The ACP Group, for its part, was also conscious of the constraints on its own bargaining capacity. However, it sought to resist any unilateral decision by the Community to change the basic nature of the Lomé relationship. The introduction of a multiple conditionality programme was seen, by the ACP, as one such fundamental change but it was also an unavoidable change. The Group recognised that fact and felt that its sole recourse was to seek some input into the governing conditions of the programme. The conclusion was that both sides were prepared to come to a common understanding on conditionality.

The reality was, of course, very different as the previous Chapters have shown. There were factors and perceptions, on both sides, which reveal the initial conclusion as limited and the facts as more complicated. The Community held a low perception of the ACP's capacity to resist its introduction of multiple conditionality. It was a perception based on its appreciation of the ACP's capacity i.e., the latter's willingness to resist, its bargaining capacity and its internal cohesion. The compliance of the ACP with the various Community initiatives on the path to conditionality convinced the Community that it could readily disregard ACP objections. The Community was all too aware of the disproportionate bargaining power which it possessed, relative to the ACP.

The Community was equally cognisant of the internal array of forces within the ACP Group. There was a significant number of states which saw no

disadvantage in the introduction of conditionality.<sup>25</sup> Underlying these perceptions was the implied threat that the access of ACP states to Convention funding in the second half of Lomé IV was dependent on their not breaching the conditional measures. The Community's position was thus a blend of imposition and a willingness to engage in dialogue to ensure the ACP's participation in implementation.

Some of the perceptions attributed to the Community were also applicable to the ACP. The latter's lack of internal unity and its negotiating weakness meant that the ACP Group was bargaining from a position of inherent weakness. The Group did not improve its bargaining strength by its failure to negotiate the operating provisions of multiple conditionality during the Mid-Term Review. The important task of negotiating, with the Community, the terms of conditionality would be met on a case-by-case basis. It has been left by default to the individual state facing sanction.<sup>26</sup>

The ACP states were not wholly captive of the Community's programme of conditionality. They retained some ultimate scope for manoeuvre because the success or failure of multiple conditionality depended on the support which it was given by the implementing state. However, the usefulness of that option had been counterbalanced by two factors. The first stemmed from

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<sup>25</sup> This minority consisted of those which had, themselves, recently benefitted from political reform and the "pragmatists" which saw conditionality as an affordable cost for continued access to Lomé resources. See Sections **2.5.2** and **4.3**.

<sup>26</sup> See Section **4.5**.

the very nature of the option: it was the recourse of an individual state, not of the Group. A failure to provide the necessary support for the programme was likely to place the state in a "no-win" situation. It would surely expose the state to sanction and cost it access to Lomé resources. The second factor arose from the nature of multiple conditionality. Its construction, with its amalgam of economic and socio-political measures, was specifically designed to reduce the ACP scope to manoeuvre in the domestic environment.<sup>27</sup>

### **7.3.3 Forms of Capacity Generated and Lessons for Conditionality?**

This thesis has concentrated on the three principal forms of institutional capacity which are relevant to the issue of multiple conditionality: bargaining, operational and instrumental. There are implications for the application of multiple conditionality to be gained from the examination of each form. I am dealing with the implications in the light of the insights provided by the two messages of the Pisani Memorandum. I have already looked at several of the implications in the earlier sections of this Chapter. To a large extent, those relating to bargaining and instrumental capacity have been covered. I do not plan to retread that ground. This section concentrates mainly on operational capacity.

The examination of operational capacity brought up a series of considerations. It underlined the ACP's

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<sup>27</sup> See Section **3.4.4** above for a discussion of the limitations on the scope for embedded liberalism.

failure to augment its technical and administrative capacity during the life of the Conventions. It also stressed the fact that the Community did not accord a high priority to the strengthening of ACP capacity to manage the Conventions. The insights from the second message of Pisani provided the explanation for both positions. It demonstrated that the ACP's failure was due, in large part, to its inability or unwillingness to listen to the message. The Group never came to appreciate the import of building its own capacity in Lomé. The Community's disregard of the second Pisani message also explained its treatment of capacity. The insights revealed a second explanation. The quest by the Community for policy control of the Convention meant that it was unlikely to build, simultaneously, the capacity of its opponents.

Generally speaking, the study of operational capacity substantiated the fact that the Community commanded resources which were asymmetrically superior to those of the ACP. It was also able to exercise its functions more effectively. That point conceded, there are several implications of operational capacity which are worthy of note. The first implication has already been noted. It is sufficient merely to restate its essentials here. For a number of reasons, the experience of implementation provided a limited and ineffective contribution to the building of ACP capacity.<sup>28</sup> These included the consequences of the second Pisani legacy and the view of the Community that ACP incompetence was a major obstacle to effective implementation. The Community had formed an

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<sup>28</sup> This point is made generally in Chapter 5, in Section 5.5 and the Conclusions in Section 5.7

opinion that the ACP involvement in joint management was more hindrance than help. This perception was a partial explanation of the Community's proposals, in the Mid-Term Review, for more Commission control over implementation.<sup>29</sup> The proposals were also in keeping with the desire to establish a firm policy control. The response to the perceived obstacles pointedly paid scant attention to the alternative option of helping to strengthen indigenous ACP capacity.

The second point to note is also general in nature. The implementation procedures followed by the Community were closely related to the traditional methods of international donors. The increased emphasis on rigour in programmes encouraged the resort to more familiar methods of implementation. The growing complexity of management of the Convention also discouraged innovation in procedures. There has been little evidence of the development of an operational model of implementation especially adapted to the ACP reality. The use of traditional methods had an important implication for multiple conditionality. It suggested that the Community might similarly resort to the orthodox programmes pursued by other international donors and which were derived from structural adjustment. It was, therefore, uncertain that the EU would be willing to design or market a model specifically geared to the ACP.

The examination of operational capacity illustrated the relative limitations of ACP capacity. It also indicated that there were shortcomings in

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<sup>29</sup> See Section **5.5.2** for a discussion of the Community's proposals.

Community capacity to meet the demands of implementation. The examination showed that the Commission suffered from constraints on its human resources, both in Brussels and in the overseas Delegations in the ACP states. It highlighted problems of internal coordination existing within the Commission services although these problems have been recognised and are in the process of being addressed. The poor implementation record of the sociopolitical programmes further suggested that there remained a great deal to be done if such programmes were to be made effective. Their relevance to a programme of multiple conditionality had impressed itself on the consciousness of the Commission as evidenced in its instrumental measures. There was little indication that the Commission was similarly seized of the need to help provide the conditions in the ACP required to build the necessary capacity.

#### **7.3.4 Central Concern of Study**

The above analysis helps to make the task of responding to the central concern of this thesis less difficult. After dealing with the supplementary questions, I can now turn to the central concern: *do the two sides possess the requisite institutional capacity to meet the additional demands of cooperation as posed by multiple conditionality?*

These demands differ insofar as they affect each side. The greater incidence falls on the ACP which has to satisfy the conditions through its performance; the Community's task is more akin to that of evaluator *cum* judge. One conclusion of this thesis is that the relative capacities of the two are inversely

proportionate to the level of demand which they face. The ACP faces the more demanding task with limited resources. The EU, in command of superior capacity, has much less to do.

The ACP Group has gained little technical or administrative capacity from the Lomé experience. It has failed to influence, to any significant extent, the emergence of multiple conditionality. The limits of its bargaining capacity were exemplified by its failure, or inability, to negotiate on the design of the programme. It did not bring the relevant experience of its members of structural adjustment to bear on the conditionality debate. Multiple conditionality poses new challenges for Lomé cooperation and represents a qualitative change in the relationship. The Group has not demonstrated the flexibility necessary to respond to changed conditions in Lomé.<sup>30</sup> It is unlikely to handle, more effectively, the demands of multiple conditionality. Finally, its lack of technical capacity has resulted in the total absence of an ACP contribution to the instrumental provisions.

The Community has a superior command of resources, both human and technical. It exercised an overwhelming control of the operations of the Convention and it set the conditionality agenda. It also serves, in a real sense, as the final arbiter of the ACP's compliance with the demands of conditionality.

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<sup>30</sup> The ability of the ACP to adapt to changed conditions in the Lomé relationship has been discussed in Section **5.6**.



However, there are caveats to the asymmetry described above. I have shown that the Community does not have total command of the requisite capacity. I have identified various shortcomings affecting its human and technical resources. The poor record of implementation of decentralised cooperation calls into question the Community's capabilities in managing such complex, non-traditional programmes. Above all, the implementation of a programme of multiple conditionality represents management at the frontiers of development cooperation where there are no proven methods to guide the donors. My initial response was that the Community was more capable of managing the demands of the conditionality programme although it too faced limits on its capacity.

This initial response must be amplified in the light of the message of the second Pisani legacy which signalled the importance of institutional capacity. The expanded response makes almost no further amendment to the initial judgement on the ACP Group. It merely notes that the Group's incapacity was to be expected as it never truly acknowledged the need to build any form of capacity in the relationship. Having rejected policy dialogue and any other message of the Pisani Memorandum, the ACP did not perceive a need to build a capacity which might be applied to conditionality.

The amplification affects the position of the Community much more. The Memorandum had identified both the policy objectives and the means to help achieve it. The second message was ignored but it did not mean that the Community did not seek to build its own capacity. It built capacity in the pursuit of both

its normal integration affairs and the management of the Convention. What the Community did not do was to build the capacity of the ACP or its own capacity relative to conditionality. On occasion, the Community did contribute to improved ACP operational capacity.<sup>31</sup> However, it was done in a selective manner which was not systematic or consciously designed.<sup>32</sup>

Having missed the link between the two messages, the Community failed to perceive the link between a successful conditionality programme and the strengthening of ACP capacity. Thus, the limited ACP capacity which the Community generated in the course of its management of the Convention lacked a full appreciation of what was required for conditionality. It captured the forms of administrative and technical capacity required by the traditional programmes of adjustment. It missed the full import of the second message with its nuances of sociopolitical aspects of capacity and its networks of relations for development.

The capacity generated by the Community was superior to that of the ACP in some matters relating to conditionality but it was almost as deficient in the sociopolitical dimension. This fact was amply demonstrated by the dearth of instrumental provisions aimed at furthering popular participation and good governance.<sup>33</sup> The EU recognised the value of

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<sup>31</sup> I have shown that some Community efforts did result in a limited strengthening of capacity in the recipient ACP state. See Sections **5.1.1** and **5.1.2**.

<sup>32</sup> This critique is developed in Section **5.1.2**.

<sup>33</sup> See Section **6.3.3**.

adaptability and capacity in the context of adjustment. However, it revealed little more appreciation, than did the ACP, of how to deal with the wider demands of multiple conditionality.

#### **7.4 Challenges and Opportunities**

The onset of multiple conditionality poses many challenges for both sides in the Lomé relationship. The outlook is not entirely pessimistic for almost every challenge also offers an opportunity for overcoming the problem posed by the challenge. The challenges for the ACP states are fewer in number and, therefore, simpler to assess. The first is the task of recognising the value of institutional capacity in development. It is a fundamental problem which goes beyond the Lomé relationship and affects overall ACP development policy. The opportunity comes from the fact that it is a problem common to the EU as well. They can both, if so disposed, use the shared endeavour of Lomé as a base for building such capacity.

The second challenge for the ACP is peculiar to the individual state. The analysis of adjustment threw up the problem of states indulging in "make-believe" attempts at satisfying reform.<sup>34</sup> The challenge for the ACP is the choice between partial attempts at satisfaction of conditionality and a genuine, though painful, effort at reform. Most of the ACP states face some form of conditionality in its aid programmes.

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<sup>34</sup> See Section 6.4.4. The problem is treated in more detail in Patrick and Sylviane Guillaumont eds., *Adjustment and Development...*, op. cit., pp. 84-87.

Lomé, as an exercise in conditionality, is not unique. Reforms, through conditionality, are now inescapable. They are a common feature of development assistance. The positive note is that Lomé offers the prospect of dealing with a familiar donor which is prepared to adopt a programme which is less formalistic and more adaptable to local realities.

The ACP states face challenges which are basic in nature but those facing the EU are more diverse. The first has been raised in the context of instrumental capacity. It concerns the final disposition of the conditionality programmes of the Community when they are taken to the other donors. In the jargon of European integration, the question is whether the EU will go native or hold out for its own differentiated models. The opportunity offered is that of helping change the mould of conditionality programming and overcome the problems identified in the traditional formula.

The second challenge for the EU is how to take account of the sociopolitical dimensions of institutional capacity, as bequeathed by Pisani. Its importance to the task of effecting multiple conditionality is established. The difficulty is in the effective generation of that capacity. I will readily admit that there exists no proven method for so doing. However, I will posit that the nucleus for creating an enabling environment already exists in the operation of the Convention. Therein lies the opportunity within the challenge. The rudiments are there in the components of decentralised cooperation, with its focus on women, the young, the private and informal sectors. The current provisions need to be

improved and extended beyond their operational involvement in programmes. They have to encompass support for the building of the general capacity of these social groups and of their roles as agents of development.

The last challenge for the Community is essential to both the Lomé relationship and the success of multiple conditionality. The EU has to decide whether it is more important to establish policy control or help build the capacity of the ACP. The two are not mutually exclusive as, together, they comprise the two legacies of the Pisani Memorandum. The approach of the EU has been to concentrate on policy control. It now needs to take cognisance of the role and value of institutional capacity.

The building of ACP capacity is vital to better management of cooperation and to an effective response to conditionality. The stimulus for a change in Community approach lies in the fact that it is in the interests of the Commission to effect that change. It is the services of the Commission which will face the ultimate test of effectiveness.<sup>35</sup> This test will come when the efforts of those services at building multiple conditionality are judged by their political masters, the policy-makers. They need to do all they can to help ensure the success of the conditionality programme. Helping to strengthen the institutional capacity of the ACP is of critical import to that success.

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<sup>35</sup> The criterion of effectiveness has been described as the motivating force behind the proposal for policy dialogue. See Section **2.1.1**.

Finally, there is a joint opportunity which emerges from the second challenge which the EU faces. The tasks of multiple conditionality demand forms of capacity, particularly in the sociopolitical areas, which are patently beyond the power of the state. They require novel interactions between the state and bodies in the civil society. These interactions pose management problems which do not lend themselves to fixed formulae and proven responses.<sup>36</sup> Neither the ACP states, as recipients, nor the EU, as donor, can claim either familiarity or demonstrable success in dealing with such forms of institutional capacity. Success or failure cannot, therefore, be easily attributed to the sole efforts of either side. It is a learning process for them both.

The opportunity, arising out of this challenge, stems from this fact. The fashioning of effective capacity in the social and political sectors - the enabling environment - will be a function of trial and error for both sides. It thus offers the ACP and the EU the opportunity to undertake a complementary effort in which they are mutually supportive. This would be the most positive approach to the demands of institutional capacity posed by multiple conditionality.

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<sup>36</sup> This point has been made at several points in the thesis and is central to the suitability of the proposed instrumental measures. See, in particular, Section 6.5 on Suggestions for Improvement.

**APPENDIX 1**

**ACP MEMBER STATES: REGIONAL GROUPINGS**

<b>Africa (47)</b>				<b>Caribbean (15)</b>	<b>Pacific (8)</b>
<b>Central (10)</b>	<b>East (12)</b>	<b>South (9)</b>	<b>West (16)</b>		
Burundi	Comoros	Angola	Benin	Antigua and Barbuda	Fiji
Cameroon	Djibouti	Botswana	Burkina Faso	Bahamas	Kiribati
Central African Republic	Eritrea	Lesotho	Cape Verde	Barbados	Papua New Guinea
Chad	Ethiopia	Malawi	Côte d'Ivoire	Belize	Solomon Islands
Congo	Kenya	Mozambique	Gambia	Dominica	Western Samoa
Equatorial Guinea	Madagascar	Namibia	Ghana	Dominican Republic	Tonga
Gabon	Mauritius	Swaziland	Guinea	Grenada	Tuvalu
Rwanda	Seychelles	Zambia	Guinea Bissau	Guyana	Vanuatu
São Tomé è Príncipe	Somalia	Zimbabwe	Liberia	Haiti	
Zaire	Sudan		Mali	Jamaica	
	Tanzania		Mauritania	St. Christopher and Nevis	
	Uganda		Niger	St. Lucia	
			Nigeria	St. Vincent and the Grenadines	
			Senegal	Suriname	
			Sierra Leone	Trinidad and Tobago	
			Togo		

**APPENDIX 2**

**MEMBER STATES OF THE EUROPEAN UNION**

Austria	Italy
Belgium	Luxembourg
Denmark	The Netherlands
Finland	Portugal
France	Spain
Germany	Sweden
Greece	United Kingdom
Ireland	



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