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How the Post-Cotonou Agreement can support EU investment and private sector development in ACP countries

Following the European Commission's recommendation for a Council Decision "authorising the opening of negotiations on a Partnership Agreement between the EU and countries of the African, Caribbean and Pacific Group of States" from 12 December 2017, DG DEVCO asked BusinessEurope to consult its members on what concrete provision they believe are required in the future Partnership Agreement with ACP countries to promote EU investment in these countries. Specifically, DG DEVCO asked business to:

1. Define key provisions to include in the renewed partnership geared at reinforcing the investment climate in ACP countries;
2. Define key provisions to include in the renewed partnership geared at strengthening the investment climate in Africa specifically in key EU economic sectors (i.e. agribusiness, renewable energy, digitalisation, etc.);
3. Define ways in which the EU can provide support at the individual company level to increase potential EU investment in Africa.

After consulting its members, BusinessEurope identified the following points:

1) <u>Provisions to improve the investment climate in ACP countries</u>

i) *<u>Risk Reduction:</u>*

- Risk reduction is essential to encourage EU companies to invest in ACP countries. Thus, the EU should use public aid as a catalyst for private capital flows to a much larger extent by offering a portfolio of capital (equity, loans, grants) and risk mitigation instruments[1], which will allow private investors to engage in developing countries with high risk profiles. Concrete initiatives may include, inter alia, a transparent market of quick-to-access first-loss guarantees, blended finance and other innovative financing modalities for European Development Finance Institutions to channel to early-growth companies investing in ACP countries. The External Investment Plan is a promising initiative in this regard and should inspire discussions on the reform of the European Development Fund.

[1] Financial support should include financial instruments like credit lines, mutual guarantees and insurance schemes, project loans, corporate loans, guarantees, bridge financing, mezzanine debt, equity, capital market issuances and local currency financing.

ii) *Access to EU Funds:*

- The access to EU funds should be further facilitated by simplifying and standardising application procedures for different financing instruments and ensuring a user-oriented interface, which should take into account businesses' modus operandi and especially that of SMEs. Currently, even large companies experience difficulties in accessing EU funding.
- An alignment of funding requirements and criteria among European Commission, European Investment Bank, and EDFIs more broadly would be useful to clearly define the scope of possible investments.
- A consistent definition of political and commercial risk applied across all EU funding instruments would help to bring clarity to businesses and allow them to better assess and access EU de-risking instruments.
- The periods between the application for funding and the actual disbursement of funds should be reduced. This would make EU EFIs more flexible and ensure that more companies can benefit from them. Moreover, the European Commission should rebalance its action towards less upstream control and more follow-up assistance to ensure the proper implementation and assessment of contracts.

iii) *Closer Dialogue:*

- Yet, no matter which funding opportunities are available, the private sector can only scale up investment in areas critical to sustainable development if the right policy environment is in place. Businesses active on the ground are best-suited to identify the areas that need to be reformed to improve the investment and business climate in a country. Therefore, a close structured dialogue between the ACP and EU public and private sectors at all levels is necessary to identify problems, find solutions and create an enabling and inclusive business and investment climate. The Sustainable Business for Africa Platform could serve as inspiration in this regard.
- At EU level, the ad-hoc consultation process should be upgraded to an institutionalised dialogue between the private sector and EU policy-making and implementing agencies in the development sector so as to identify common challenges, inform policy responses, recommend development-policy instruments and accompany the implementation of initiatives pursuing shared economic development objectives.
- Business organizations at national, regional and sectoral level act as mediators between individual companies and policy-makers and thus play a crucial role in aggregating business priorities and concerns and feeding them into the policy process. However, they are generally weak in the ACP region. Therefore, the EU needs to scale up its efforts to build the capacity of these organisations in ACP countries and increase their representativeness. Yet, the existing tools for this did not prove effective. Thus, there needs to be a greater focus on facilitating partnerships between European and ACP business organisations.

iv) *Investment Framework:*

- Extending bilateral investment treaties towards more harmonised investment and tax agreement frameworks across ACP states and EU Member States could contribute to creating an enabling regulatory environment conducive to FDI.

- The Agreement should include a reference to the equality of treatment between national and foreign business subjects both regarding the regulations that companies have to comply with and regarding their access to and treatment by civil and criminal courts in ACP countries. Moreover, it should encourage ACP governments to strengthen anticorruption agencies.
- ACP countries should be encouraged to increase transparency in government procurement.

v) *Promotion of Economic Diversification:*

- Africa is a continent with abundant raw materials but with limited capacity to transform them industrially and thus create value and employment at local level. The new Agreement is a unique opportunity to promote economic diversification in Africa, including through industrialisation. European businesses can play an important role in achieving this goal. Therefore, partnerships (such as joint ventures) should be stressed as a key tool to co-develop opportunities in the ACP states.
- Public-private partnerships should be promoted. They could have a fundamental role to play in the economic development of ACP countries, insofar as they make the private sector more dynamic and boost synergies between institutions and economic operators.

vi) *Regional Integration:*

- The Agreement should include provisions promoting the finalisation of EPAs. They play a key role in supporting the regional integration processes of ACP countries, e.g. in terms of harmonization of regulation, taxation, customs procedures, free movement of goods, strengthening regional institutions etc. EPAs should be compatible with other economic integration processes in the region to avoid fragmentation and promote regional supply chains.
- European funds should be applicable to supporting the regional integration of ACP states.

vii) *Diaspora:*

- Engagement with the diaspora from ACP states in Europe should be enhanced. Due to their knowledge of the local context in ACP countries, migrants can be key-players in the sustainable development of their countries of origin.

2) Provisions to strengthen the investment climate in Africa in key EU economic sectors

i) *Agribusiness:*

- More strategic capital, especially risk-tolerant or blended private equity, is required for agri-businesses in its early growth-stage in order to help bridge the gap between seed/venture capital and later stage EU scale-up initiatives like the Agriculture Financing Initiative (AgriFi).
- EU and ACP countries should collaborate to strengthen local institutions, including public extension services, increase public sector cooperation and support private sector actors, both institutionally and financially, in promoting innovation and increased productivity in the agricultural sector (e.g. through developing new varieties more resistant to climate risks).

- Risk for foreign investors should be reduced by encouraging ACP countries to pursue a predictable and coherent agricultural policy. In this regard, also the issue of counterfeited products for agricultural inputs should be addressed.
- The new Agreement should provide financing and technical assistance to promote the development of agricultural supply chains in Africa, including industrial transformation, storage, transport, access to essential inputs, etc. Priorities should include: developing financing structures that benefit smallholder farmers, including crop insurance schemes; increasing the capacity, productivity, scale and market access of industrial companies and cooperatives; and promoting sustainable practices to address the challenges of climate change and food security.
- Intra-African trade and trade with Europe is essential for agricultural value chains to develop in Africa, which is why trade of agricultural commodities should be facilitated.

ii) *<u>Energy:</u>*

- Scaling up electrification and modernization of electricity generation in ACP countries is currently hindered by a lack of bankable energy projects, which is partly due to the limited number of project developers in these markets. The Agreement should encourage and facilitate the entry of new energy project developers in ACP markets by, inter alia, reducing red tape, allowing for competitive bidding in the area of energy supply and providing early-stage risk capital earmarked for project development purposes.
- In addition to promoting renewable energy generation solutions and addressing the infrastructure gap in transmission and distribution grids, the Agreement should provide funds to improve long-term grid stability by increasing storage and spinning reserve capacity.
- The electrification of rural areas in Africa should be supported more. This requires both financial instruments that minimize country-specific risk and specific training programs for the on-site technical staff. Having a variety of positive effects, such measures are also crucial to develop cool chains and storage facilities for agricultural value chains.
- The Agreement should encourage its Parties to remove all unnecessary regulatory and administrative barriers to long term corporate Power Purchase Agreements.
- Capacity building is necessary to help ACP governments to define clear policies and regulatory frameworks for the promotion of a sustainable energy sector. Furthermore, support to the development of common standards for contracts and tenders, as well as technical standards for operations and maintenance, needs to be strengthened.

iii) *<u>Technologies and innovation:</u>*

- ACP countries should take measures to make the operating environment for economic players in the ICT sector more predictable to increase mobile network uptime. Concrete measures include i) favourable policy, ii) a predictable regulatory framework and increased competition in spectrum concession bidding processes, iii) and allowing awarded economic players to operate networks without discriminatory intervention from public sector entities.

iv) Horizontal issues:

- A joint African-European arbitral entity should be created to provide more legal certainty for contracts.
- ACP countries should be encouraged to create regional regulatory authorities in key sectors (e.g. energy, telecoms, transport, water, utilities, etc.). These regulatory authorities should intervene in case of problems with the interpretation of contracts between operators and clients.
- The scope of the types of projects funded by the EU External Financing Instruments should be expanded to contribute to the development of sectors outside the traditional ACP-EU cooperation framework and maximise impact. Major issues include digitalisation, industrialisation, economic diversification and entrepreneurship.
- Other key sectors for which the investment climate and funding possibilities should be strengthened include infrastructure, energy, mobility, green technologies, sustainable forestry, pharmaceutical industry, logistics and packaging.
- In order to ensure inclusive growth, sustainable development and a level playing field for European companies, measurement of the impact of financed projects must become a key criterion in the allocation of European aid. The impact could be rated in terms of job creation in the country, the creation of a subsidiary in the country, the long-term presence in the country, the legal structure, the fiscal impact, the share of local content, the involvement of the population in the project, environmental criteria, etc.

3) Ways in which the EU can provide support at the individual company level to increase investment in Africa

- The European Union should continue and strengthen the support from local EU Delegations to companies and institutions from EU Member States seeking to operate in ACP countries. This is especially important for companies from smaller EU Member States since, for them, limited local representation of their respective state may limit their capacity to invest in ACP countries.
- The Agreement should promote and support technical and vocational training programmes in ACP countries to provide people with the skills needed by business, foster entrepreneurship and spearhead the commercial development of companies.
- Export promotion instruments developed by European investment banks, e.g. export insurance schemes, which back companies in case of a commercial disaster outside their control, are key for giving more companies the confidence to invest in and develop trading links with Africa.
- Capacity and network building programs aimed at strengthening professional/managerial and technical skills of professionals in European companies in specific industrial sectors are key to enable EU companies to invest in ACP countries as it facilitates business relations between companies.
- Market and investment analyses as well as sector studies are essential tools to guide companies and especially SMEs in their activities. The EU should support initiatives aiming to provide detailed maps identifying focus sectors for investments in connection with the needs of each country. It should also provide funding for feasibility assessments for projects.