

ACP-EU COTONOU AGREEMENT

AFRICAN, CARIBBEAN AND PACIFIC
GROUP OF STATES

COUNCIL OF THE
EUROPEAN UNION

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REPORT

Subject: Report on the 2011-2012 dialogue on migration and development endorsed by the ACP-EU Council of Ministers at its 37th session on 14 June 2012 in Port Vila.

Report to the ACP-EU Joint Council on the 2011-2012 dialogue on migration and development

Background

- 1) In June 2010 the ACP-EU Council adopted a Joint Declaration on migration and development, in which the Parties committed to strengthen and deepen their dialogue and cooperation in the area of migration, building on three pillars, migration and development, legal migration and illegal migration.
- 2) In May 2011 the ACP-EU Council endorsed the report on the first cycle of dialogue and agreed that the ACP and the EU should pursue the dialogue on seven themes, mobility of skilled persons, legal migration, readmission, visa, smuggling of migrants and trafficking in human beings, migrants' rights and remittances, with a specific focus for the dialogue 2011-2012 on visa, remittances and readmission.
- 3) An addendum to the Terms of Reference was thus agreed, laying down the principles and operational aspects of this second cycle of dialogue.

Outcomes

- 4) Six Ambassadors' meetings and three experts' meetings (visas, remittances and readmission) took place between November 2011 and May 2012. On every topic, the ACP and the EU side presented their respective views and positions, followed by discussions.
- 5) The following three sets of recommendations have been elaborated by the experts and subsequently reviewed and validated at ACP-EU Ambassadors' level.

Visas

Recommendations elaborated by the Expert's meeting on the

15th February 2012 and validated by the Ambassadors' meeting on the 7th May 2012

Experts of the EU and the ACP countries met on 15 February 2012 in Brussels to discuss their respective visa policies. The meeting has demonstrated the necessity to deepen, in a framework to be defined, including at regional and national level, mutual knowledge of the EU's (particularly the Visa code) and ACP's visa policies.

In a framework to be defined, the shared objective of the two Parties will be:

- To continue the exchanges on visa-related legislation and practices, including on the implementation of the Visa Code, that provides applicants in ACP countries with a more stable, harmonised and transparent framework.
- To deepen the exchanges on specific aspects, in particular on the fees associated to visa applications and travel medical insurances, the appeal procedures against decisions refusing a visa and the alerts in the Schengen Information System.
- To continue the reflection on the best ways to improve accessibility to visa application procedures and to the information on such procedures. The ACP Party wishes that the reflection covers also the issuance of visa.
- To consider, building on the positive experience represented by the common visa application centre known as "Schengen House", the added value of replicating this model in other ACP countries.
- In accordance with Protocol N° 2 to Annex VI to the Cotonou Agreement, on privileges and immunities:
 - To encourage a broad application of the accelerated procedure already implemented for processing visa applications, according to modalities to be defined, for members of official delegations who attend meetings in the framework of the dialogue and the cooperation between ACP countries and the EU;
 - To explore how to optimise the possibilities offered by the Visa Code and by national legislations of ACP countries, to issue long term multiple-entry visas to permanent members of delegations attending official meetings in the framework of the ACP-EU dialogue and cooperation, following the principle of reciprocity.
- In this context, the ACP side also raised the issue of a possible visa waiver for diplomatic passport holders.

Remittances

Recommendations elaborated by the Expert's meeting on the

16th February 2012 and validated by the Ambassadors' meeting on the 7th May 2012

The ACP-EU Experts' meeting on remittances that was held on 16 February 2012 in the framework of the ACP-EU Dialogue confirmed the need to further deepen knowledge and understanding of the multi-faceted issues related to remittances. In that regard, the experts identified operational indications targeting specifically the following areas. In this context reference was also made to the link between remittances and the migration policy. It was suggested by the ACP side that the link be further analysed.

These proposals are valid for both North and South partners with a special focus on South South remittances:

At the Government and regional level

- Jointly explore ways to improve the legislative and regulatory framework of sending and receiving countries, in particular in order to promote competition on the financial market.
- Reinforce the capacity of the relevant authorities in the area of collection of reliable data, their processing and analysis both at EU and ACP level, including through peer to peer cooperation and exchange of best practises.
- Make available to the relevant actors as well as to the general public data on transfer costs in order to improve their transparency and comparability.
- Improve knowledge on South North remittances.

At Government and private sector level

- Broaden the typology of formal channels that can be used to send and receive remittances, including postal networks and other relevant operators. In this context the use of new technologies such as mobile phones should be further promoted.
- Assess gaps and constraints of the current systems in order to ease transfers, including through facilitating for migrants the opening of bank accounts in both source and receiving countries (linked bank accounts).
- Pursue the efforts to significantly decrease the costs of transferring remittances, both from the EU to ACP countries

and between ACP countries.

- Promote access to financial services, with particular attention to rural areas. At

Government and overall population level

- Promote financial literacy for migrants and the recipients of their transfers to enhance management and development impact of remittances.
- Support possibilities for further mobilising investments of migrant savings which aim to contribute to development and the creation of businesses in the countries of origin, in particular through the modification of regulatory frameworks and the use of specific financial arrangement.

Readmission

Recommendations elaborated by the Expert's meeting on the

24th April 2012 and validated by the Ambassadors' meeting on the 7th May 2012

- The terms employed by the various parties in the framework of the ACP-EU dialogue need to be clarified, to ensure better understanding.
- Return and reintegration policies should be considered in the broader framework of migration policy. In particular, the issue of illegal migration and the return of migrants needs to be handled in parallel with initiatives to promote legal migration, asylum policy and policies for the promotion of the link between migration and development.
- Experts took stock of the problems encountered in the direct implementation of the provisions of Article 13 of the Cotonou Agreement. The dialogue, which was launched to address these issues, should make it possible to provide the necessary clarifications, so that practices that address the concerns of all the parties can be implemented. Increased dialogue between the host country and the countries of origin of migrants and an understanding of the needs of the two Parties are essential if the successful return of migrants is to be ensured. A reformulation of Article 13 could be discussed during the next revision of the Cotonou Agreement.
- The experiences presented by the various parties showed the benefits of deeper cooperation between the actors involved in return and reintegration operations as regards the identification of migrants, the issuing of documents, and the return and reintegration of migrants with due respect for their rights.
- In particular, the participants acknowledged the importance of setting deadlines for responding to all requests for readmission and for the processing of requests for identification, including the organisation of interviews, especially with a view to shortening the period for which the persons concerned are detained. These deadlines will be jointly defined during the next round of discussions.
- At the same level of priority, the participants acknowledged the added value which a common list of documents or elements of proof defining nationality would provide. This list will be defined jointly during the next round of discussions.
- The Parties acknowledged that, once the identification process is completed, the issuing of the travel documents should follow within a reasonable time. This timeframe will be jointly defined during the next round of discussions.
- The protection of the rights of migrants is a fundamental element in the readmission process.

The existing provisions in this area must continue to be implemented, while ensuring the practical application of policies guaranteeing respect for those rights and the dignity of the person at all stages of the process, in conformity with applicable international commitments in these matters.

- The importance of return and reintegration assistance for migrants was highlighted by Experts. This is a matter of lending support to illegal migrants before and after their return, so as to facilitate their access to legal aid in the host country and, if need be, to allow successful reintegration into their country of origin.
- It is important to point out the emphasis placed on the forced return of illegal migrants as the last resort in a process which includes the promotion of voluntary return. The Experts agreed on the advantages of the various forms of voluntary return.

Follow-up

In order to achieve progress on all tracks, both sides agreed that the ACP-EU dialogue on migration and development will continue as one package based on a multi-annual framework centred on a yearly Ambassadors' meeting supported by Experts' meetings.

- (1) The dialogue will be supported by **Experts' meetings** on migration (Brussels- based). The Expert's meetings will focus on the implementation of the recommendations on visas, remittances and readmission validated in the 2011-12 dialogue and will gradually address the other topics identified in the 2011 Joint ACP-EU Council conclusions: (i) mobility of skilled persons, (ii) legal migration, (iii) smuggling of migrants and trafficking in human beings and (iv) migrants' rights. Experts' meetings will be convened at least once per year and will address two new topics per meeting.
- (2) The **Ambassadors' meeting** will be convened once per year, in Brussels in the first quarter of the year. Based on the work of the Experts' meeting, the Ambassadors' meeting will address:
 - the progress on the implementation of the recommendations on remittances, visa and readmission, and,
 - the recommendations elaborated by the Experts on the remaining topics identified in the 2011 Joint ACP-EU Council conclusions: (i) mobility of skilled persons, (ii) legal migration, (iii) smuggling of migrants and trafficking in human beings and (iv) migrants' rights.It shall also be possible to convene an ad hoc ACP-EU Ambassadors' meeting to discuss progress of this dialogue whenever this proves necessary.

Proposals to Joint Council

Based on the above considerations Ministers are recommended to:

- a) Recall that according to Article 13 of the ACP-EU Partnership Agreement signed in Cotonou in June 2000 "the issue of migration shall be subject of in-depth dialogue".
- b) Agree that this dialogue may lead to a shared understanding that the current Article 13 needs to be further specified and updated. This dialogue may thereby prepare the ground for the next revision of the Agreement.
- c) Acknowledge that significant progress has been recently made in this field, in particular through the two cycles of dialogue on migration organised in Brussels since 2010.
- d) Recognise that, as requested by the 2011 ACP-EU Council of Ministers, concrete first steps in strengthening

the operational aspects of ACP-EU cooperation in the area of visa, remittances and readmission have been made.

- e) Endorse the report on the 2011-12 cycle of the dialogue, prepared by the ACP Secretariat and the European Commission.
 - f) Support the recommendations on visas, remittances and readmission, which have been elaborated in the expert meetings and which have been validated by the Ambassadors.
 - g) Commit to start implementing these recommendations shortly, but within the coming 12 months, in accordance with the legislation applicable, and to jointly monitor progress made on a regular basis.
 - h) Confirm to continue the dialogue and deepen the cooperation in order to foster the links between migration and development and address migration matters with a frank, balanced and results-oriented approach. Agree that the ACP-EU dialogue on migration and development will continue on a multi-annual framework centred on a yearly Ambassadors' meeting supported by Experts' meetings.
 - i) Bearing in mind the positive results achieved on visas, remittances and readmission and aware of the need to continue work on these tracks, intend to continue the dialogue on the other topics indicated in the 2011 Joint Council conclusions namely mobility of skilled persons, legal migration, smuggling of migrants, trafficking in human beings and migrants' rights.
 - j) Request the ACP Secretariat and the European Commission to ensure in the most appropriate way and without delay the continuation of the dialogue, including the mobilisation of appropriate funding and organisation of the meetings.
 - k) Request the ACP Secretariat and the European Commission to report to the Joint Council on the further progress of this dialogue on an annual basis and to carry out a joint stock-taking of the outcomes of the dialogue at the beginning of 2014.
 - l) Endeavour to explore the possibility to gradually integrate, according to their nature, key issues identified in the framework of this dialogue within other relevant regional dialogues on migration as well as at national level.
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