



Agency for International Trade Information
and Cooperation

November 2008

AITIC Briefing Session

Economic Partnership Agreements: Main Aspects of the CARIFORUM EPA

Thursday 30 October 2008, 9.30 –17.30
Crowne Plaza Europa Hotel, Brussels

I. Objectives

1. The main objective of the seminar was to inform about the key aspects of the Economic Partnership Agreement (EPA) signed between CARIFORUM) countries and the European Communities (EC). The expectation was that the discussion of the main traits of the first EPA signed between the EC - one of the six regions negotiating these agreements - would facilitate the understanding of similar issues for those ACP countries with EPAs still under negotiation.

II. Organisation and Participants

2. This Briefing Session was organised by the Agency for International Trade Information and Cooperation (AITIC) on demand from several of its non-resident Participating Members. The participants were mainly Brussels-based ACP government officials, including several ambassadors. The event was also attended by four Geneva-based ACP officials. Two representatives of the Caribbean Regional Negotiating Machinery (CRNM), HE Mr Henry Gill, Director General and Mr Malcolm Spence, Senior Coordinator, were the keynote speakers.

III. Opening Remarks

3. The importance for less-advantaged countries (LACs) to diversify their trade in terms of opportunities and not to only concentrate on the multilateral arena, in particular at this moment of stand-still in the Doha negotiations, was underscored by Dr Esperanza Durán Executive Director of AITIC in her opening remarks. In this context, the EPAs offered ACP countries an alternative to continued as well as new market access and trade opportunities. However, the negotiation of EPAs had been – and was still being for most regions – a long and complex process, raising numerous queries in most areas of the negotiations, such as the impact of the

Most Favoured Nation (MFN) Clause, the technology transfer or how to deal with regional integration. In the aftermath of the signature of the CARIFORUM EPA answering these and other questions became more pertinent than ever for the interest of other regions still negotiating.

IV. Issues under Discussion

4. The event was divided into three sessions as follows:

- Presentation of the CARIFORUM EPA, stressing the context in which the negotiations took place and as well as its main building blocks.
- Key provisions of the Agreement, with five different dedicated speeches for services, agriculture, institutional aspects, competition and innovation, respectively.
- The regional dimension of the EPA.

A. Introduction to the Agreement

5. HE Mr Henry Gill, explained that the EPA was contemplated in the Cotonou Agreement, signed between the EC and ACP countries in 2000, as a permanent solution to the longstanding waiver which had allowed the EU to grant preferential treatment to the ACP countries. Regarding the trade aspects, the Cotonou Agreement stipulated that the period from 2000 to 2008 should be used as preparation for the signature of comprehensive trade agreements, i.e. the EPAs. Although stemming from the Cotonou, the EPAs would not replace it as all other non-trade related areas that would remain valid until 2020.

6. Negotiations between the CARIFORUM and the EU started in 2004, and were divided into four main areas: (i) market access (goods); (ii) services and investment; (iii) trade-related aspects and; (iv) legal and institutional issues. The objective of the negotiations was to promote a development-friendly region-to-region agreement. To this end, the deal aimed to retain tariff preferences already enjoyed by Caribbean countries, improve services access, enhance competitiveness, promote regional integration and secure funding, among other issues. Also, a number of principles needed to be respected, like maintaining the single-undertaking nature of the negotiations, the Special and Differential Treatment (S&D) in favour of the Caribbean Less Developed Countries (LDCs), the asymmetrical reciprocity, keeping intra-regional preferences or the MFN obligation. With regards to this obligation, Ambassador Gill explained that extending to the EC any future better treatment granted by CARIFORUM to third countries would only affect those which represented more than one per cent of world trade. In practice, other than developed countries, those concerned would be countries such as Brazil, India and China.

7. Negotiations concluded in December 2007, just two weeks before the original deadline. The EU-CARIFORM EPA retained an interim nature until October 2008, when 13 out of 15 Caribbean countries formally signed it. Guyana joined shortly afterwards, leaving Haiti as the only country not having signed the EPA yet.

B. Key Provisions of the EPA

8. Mr Luis Verdeja, Trade Affairs Officer, AITIC, presented the services and investment components of the EPA, HE Mr Henry Gill, the chapter on agriculture and fisheries; Mr Jerrol Renfrum, Professional Trainee, AITIC, explained the legal and institutional structure and; Mr Malcolm Spence, looked into the trade-related aspects of the Agreement.

9. Mr Verdeja explained that the structure of the services and investment part of the agreement was similar to that of the General Agreement on Trade in Services (GATS) i.e it was a positive list agreement. There were, however, some differences, in particular that the EPA also included investment in non-services sectors, such as manufacturing, which does not occur in the GATS. He presented the main commitments of both the EC and CARIFORUM, pointing out that the EC had listed more sectors than the Caribbean countries. Probably the most noticeable outcome of the negotiations was the inclusion of several commitments on mode 4 (movement of natural persons), especially with respect to contractual service providers and independent professionals. This presentation was completed by the participation of HE Mr Federico Alberto Cuello, Ambassador of the Dominican Republic to the European Union and Chief Negotiator of the Services Aspects of the EPA. He stressed the very positive impact that the services provisions could have on the development of the region, as it would secure a business-friendly legal environment for investors, which would eventually bring along gains in employment and technology transfers. He also remarked that the provisions banned corrupt practices and promoted labour and environment friendly investments, thus guaranteeing the quality of the investments.

10. In his presentation on agriculture and fisheries, Ambassador Gill enumerated the chapter's main objectives: increasing the competitiveness of the sector and guaranteeing food security as well as sustainability, in particular that of fisheries. He detailed the market access granted by both sides, highlighting its asymmetry in favour of CARIFORUM; the EC would open 100 per cent of its tariff lines (with short transition periods on bananas, sugar and rice), while Caribbean countries retained, on average, 75 per cent of agricultural and fisheries import volumes excluded from liberalisation and transition periods of up to 25 years for sensitive products. Two important aspects of this chapter were the safeguards and the subsidies provisions. With regards to safeguards, these could only take the form of: suspension of further liberalisation on the product concerned, an increase in the reduced duty up to MFN limits or a quota for a period of 200 days. In addition, the EC would not impose multilateral safeguards on Caribbean products for at least the first five years of the EPA. As for subsidies, the Agreement introduced the principle of "zero-for-zero", i.e. the EC would only eliminate export subsidies on those products liberalised by CARIFORUM. Domestic subsidies were unaffected by the EPA. The chapter also addressed the question of preference erosion, with the EC accepting to maintain, for as long as it is feasible, a margin of preference in favour of Caribbean countries. Finally, Ambassador Gill pointed out some of the development cooperation areas that the parties had agreed to target: improvement of the export-marketing capabilities or the promotion of public-private partnerships and private investment.

11. In his presentation, Mr. Jerroll Renfrum focused on the legal and institutional issues. In total four institutions were to be created to govern the EPA:

the Joint CARIFORUM-EC Council, which was the highest institution and was composed by Members of the Council of the European Union and Members of the European Commission on the one hand, and the representatives of the Governments of the CARIFORUM States on the other. The Council would be vested with normative powers and could take binding decisions on any aspect of the Agreement. The other three institutions were the CARIFORUM-EC Trade and Development Committee, in charge of development questions; the CARIFORUM-EC Parliamentary Committee, responsible for the good governance of the agreement; and the CARIFORUM-EC Consultative Committee, which would act as the link with civil society.

12. Mr Malcolm Spence covered the trade-related aspects of the EPA, which centred on six areas: (i) competition, (ii) innovation and intellectual property, (iii) public procurement, (iv) environment, (v) social aspects and (vi) protection of personal data. He first presented innovation and intellectual property and then focused on the other five issues.

13. With regards to innovation and intellectual property, Mr Spence, who had been directly involved in these negotiations, noted that both aspects had been combined in the same chapter in recognition of the importance of protecting intellectual property in order to promote innovation. The main provisions of the chapter encouraged technology transfer through initiatives such as the eventual participation of Caribbean companies in European competitiveness programmes and the increased protection of Geographical Indications (GIs) beyond wines and spirits. Mr Spence cited Jamaica's Blue Mountain Coffee as an example that would benefit from increased GI protection. He referred to the development cooperation priorities in this area which would focus on improving national intellectual property structures as well as identifying GIs and protecting such products.

14. The remaining trade-related aspects were briefly dealt with in a separate presentation. Mr Spence explained that, at the beginning of the negotiations, there was opposition to the inclusion of competition in the EPA, arguing that developing countries had refused to negotiate it at the multilateral level. However, it was not competition *per se* the reason why it was excluded from the WTO negotiations, but rather the fact that developed countries had diverted attention away from other sensitive areas like NAMA or agriculture, by turning to competition. In addition, competition policy in the Caribbean countries was at an embryonic state, so adding competition to the Agreement was in line with the region's policy trends. The provisions contained in the deal aimed principally at prohibiting discriminatory practices of enterprises, with certain exceptions to enterprises with special rights. Competition authorities of both sides would initiate an initial period of collaboration. With regard to government procurement, the EPA only contained provisions relating to transparency, not to market access. This would benefit smaller Caribbean companies by having better access to information about public tenders. The environment and social chapters were both aimed at promoting good practices by encouraging adherence to international standards, as well as retaining the right to regulate in these areas. Finally the protection of personal data section was intended at creating the appropriate environment in CARIFORUM to protect EU personal data, providing a seven year transition period for the legislation to adapt.

C. Regional Integration in the EPA

15. The final session of the event was devoted to regional integration within the EPA. Ambassador Gill highlighted that one of the main objectives of the Agreement was the promotion of regional integration, so this issue was present throughout the Agreement. He noted that both sides had similar views in this regard, considering deeper integration a common objective. A consequence was that the Agreement encouraged integration both within the Caribbean Community (CARICOM) and between CARICOM and the Dominican Republic. He noted that during the negotiations it had been made clear that it would not be logical to extend to the EC better treatment than the CARIFORUM countries afforded each other. Further, the Agreement foresaw the establishment of common institutions and legislation in those areas where they were still missing or where they were in an incipient state, as in competition or intellectual property. At the same time, in respect of the principle of S&D for LDCs that applies in CARICOM, these countries were allowed to liberalise goods and services to a lesser extent as well as to apply longer transition periods in the application of commitments. Altogether, the region would be strengthened by the implementation of the EPA as it preserved the regional *acquis*, and paved the way to further develop common rules and institutions.

IV. Closing Remarks

16. In the closing remarks, Ambassador Gill reaffirmed his conviction that the CARIFORUM EPA was a good agreement for Caribbean countries as most of their requests had been met. Doubtless, the EPA would contribute to the development of the region by providing for cheaper access to goods, by attracting investment, and promoting a better legal environment. A remarkable fact was that the region had demonstrated its capacity to stay together as a negotiating unit despite the complexity of the negotiations. He encouraged other African and Pacific countries to progress in the negotiations to finalise their respective EPA

Acronyms

ACP	African, Caribbean and Pacific
CRNM	Caribbean Regional Negotiating Machinery
CARICOM	Caribbean Community and Common Market
CARIFORUM	Caribbean Forum of ACP States
EPA	Economic Partnership Agreement
EC	European Community
GATS	General Agreement on Trade in Services
GI	Geographical Indications
LAC	Less-advantaged Country
LDC	Least-developed Country
MFN	Most Favoured Nation
SDT	Special and Differential Treatment