

# Discussion Paper

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## **Implementing the Economic Partnership Agreement in the East African Community and the CARIFORUM regions: What is in it for the private sector?**

**Isabelle Ramdoo and Aurelie Walker**

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Aurelie Walker

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## Abbreviations

ACP	African, Caribbean and Pacific
BMZ	German Federal Ministry for Economic Cooperation and Development
CAIC	Caribbean Association of Industry and Commerce
CARICOM	Caribbean Community
CARIFORUM	Caribbean Forum
CEDA	Caribbean Export Development Agency
CEMAC	Communauté Economique et Monétaire de l' Afrique Centrale
COMESA	Common Market for Eastern and Southern Africa
COTED	Council of Ministers of Trade and Economic Development
CSME	Caribbean Single Market and Economy
CPA	Cotonou Partnership Agreement
CRNM	Caribbean Regional Negotiating Machinery
DFID	Department for International Development
DFQF	Duty Free Quota Free
EABC	East African Business Council
EAC	East African Community
EBA	Everything-But-Arms
EC	European Commission
ECDPM	European Centre for Development Policy Management
ECOWAS	Economic Community of West African States
EDF	European Development Fund
EPA	Economic Partnership Agreement
ESA	Eastern and Southern Africa
EU	European Union
FEPA	Framework Economic Partnership Agreement
FPEAK	Fresh Produce Exporters Association of Kenya
GATS	General Agreement on Trade in Services
GTZ	Die Deutsche Gesellschaft für Technische Zusammenarbeit (German international cooperation enterprise for sustainable development)
ILEAP	International Lawyers and Economist against Poverty
ILO	International Labour Organization
IMF	International Monetary Fund
ITC	International Trade Centre
KEPLOTRADE	Kenya-European Union Post Lomé Trade Negotiations Committee
KEPHIS	Kenya Plant Health Inspectorate Service
LDC	Least Developed Country
SME	Small and Medium Enterprises
NIP	National Indicative Programme
NISCO	National Informal Sector Coalition
OAS	Organization of American States
ODI	Overseas Development Institute
OECS	Organization of East Caribbean States
PSF	Private Sector Federation (Rwanda)
PSOJ	Private sector Organization of Jamaica
RIP	Regional Indicative Programme
RoO	Rules of origin
RPTF	Regional Preparatory Task Force



SADC	Southern Africa Development Community
SPS	Sanitary and Phytosanitary Measures
TBT	Technical Barriers to Trade
UNECA	United Nations Economic Commission for Africa
UNIDO	United Nations Industrial Development Organization
WTO	World Trade Organization

## Executive Summary

African Caribbean and Pacific (ACP) countries have been involved in the Economic Partnership Agreement (EPA) negotiations with the European Union (EU) since 2002 and ought to have concluded them by the end of 2007. However, outcomes have been diverse, complex and contrasting: while only one region, the Caribbean Forum (CARIFORUM), concluded and signed a “comprehensive EPA”, in all other ACP regions, Agreements were concluded by a handful of countries and covered only trade in goods. Since then, progress in the negotiations, either to conclude all-inclusive EPAs that would cover all countries, or to include issues such as trade in services or other trade related issues remained quite slow. Lack of progress was further exacerbated by the recent financial crisis that had, in the mean time, rendered developing countries more vulnerable to external shocks.

Based on the experience of the CARIFORUM and bringing in an African perspective, with the East African Community (EAC), this paper examines what the EPA has brought for those who are the main implementing agents: the private sector. While full implementation of the Agreements remains a major issue of concern, given that mechanisms are not fully operational at national and regional level, the EU has already autonomously applied its market access offer to the signatories. In this regard, one can already assess what has been obtained from a purely commercial perspective and how far this has been an improvement, if any, over the previous trade regime. However, EPAs were not meant to be about trade only: to measure whether the Agreements have really been beneficial, there is a need to go beyond and consider the dynamics that they ought to have created, in terms of new business opportunities, of the development of the private sector and of the technical and financial capacities put at their disposal to mitigate the costs of implementing the Agreements.

This paper compares the outcomes of the EPA in the CARIFORUM region and the EAC region and the role of their respective private sectors. Although having contrasting economic and trade structures, both regions have one thing in common: their private sector is mainly composed of micro, small and medium enterprises (MSMEs), many of which fall in the informal sector, and relatively fewer large companies. The MSMEs make up the bulk of domestic production and contribute significantly to employment creation. Paradoxically though, these MSMEs have not been the ones to trade with the EU and therefore did not really benefit from the long-standing trade preferences. Rather, international trade in both regions has been dominated by a handful of large and well-established “traditional” exporters, who had well organised production and marketing structures.

During the negotiations process, those “traditional” exporters in both regions were quite active in advocating their offensive and defensive interests. A closer look at the outcomes of the EPA indicates that their main interests have been safeguarded: where outcomes were less favourable (like in the sugar and banana sector), they have been able to secure accompanying measures to assist them in the transition towards competitiveness. Evidence of the active participation of MSMEs has however been less clear, although consultations were held at the national level prior to negotiations. They were relatively poorly organised and did not have sufficient technical and financial capacity to understand what was at stake and to advocate and articulate clear interests and therefore actively participate in the negotiations process.

Analysis shows that a well-organised sector that has the knowledge of risks and opportunities in trade negotiations, strong advocacy capacity and a platform for dialogue with government that fosters good state-business relations, are more inclined to benefit from trade agreements. Furthermore, it is widely acknowledged that there should be a shared responsibility between government and private sector in

complying with commitments taken in Agreements, in creating opportunities and conditions for business growth and in making the necessary reforms to adjust to the new trading environment.

The CARIFORUM has already signed a full EPA: the main challenge now is to ensure effective implementation and proper monitoring and evaluation of the outcomes of the Agreement. The EAC on its part, has concluded a Framework (FEPA), but has not signed and implemented it. It has also agreed to continue negotiations towards a final EPA, which will cover trade in services, investment and other trade related areas. Challenges however are many: the region will need to ensure that the outcome of the agreement reflects the real interests of the business community, while enhancing the participation of the private sector and empowering it in the decision making process and at the same time addressing internal weaknesses (supply side, financial and institutional constraints). The EAC is also in the process of furthering its regional integration agenda: proper sequencing is needed to ensure complementarity between the regional agenda and the EPA so that both processes reinforce each other.

However, EPAs are yet to be fully implemented, mainly for political and technical reasons. It is therefore too early to make a comprehensive assessment of its implementation. Despite this major challenge, this study has tried to draw lessons based on what has happened so far: whether the private sector has been able to avail of the market access opportunities, to what extent they are aware of those new opportunities and what are the main challenges they are facing in reaping the benefits.

From the experience of the two negotiating processes, some lessons can be drawn to improve private sector participation in trade negotiations: First, ensuring a proper and functional negotiating structure, where the negotiating regional framework or organisation has the necessary political mandate to negotiate on behalf of its members. Private sector stakeholders need to have a key role to be able to advocate their positions, interest and concerns. In parallel, countries need to develop policy responses together with private sector stakeholders to address the challenges that may arise as a result of commitments taken, including economic reforms. Private sector needs to be part of the decision making process: a good state-business relationship needs to be strengthened by a formal platform for dialogue. The development of strong private sector intermediaries in particular to represent the interests of those that are currently poorly organised is essential if countries and regions want to move beyond traditional exports and improve the opportunities of MSMEs in doing business with the EU.



# 1. Introduction

## 1.1. Background

African, Caribbean and Pacific (ACP) countries have been involved in negotiating the Economic Partnership Agreement (EPA) with the European Union (EU) since 2002. Whilst governments have been mainly involved in negotiating the agreements, private sector will no doubt be the main implementing agents, given their key role as drivers of trade, growth, production and innovation.

The shared responsibility between government and the private sector in the implementation of the EPA both at the national and regional level is widely acknowledged: while governments need to take the necessary steps to comply with the EPA commitments and are responsible for creating an enabling environment for trade and investment, the successful implementation of the EPA largely depends on the private sector's capacity to innovatively and intelligently respond to the evolving environment. This includes working together to mitigate the costs of liberalisation, adjusting to a more competitive environment as their region removes tariff and non-tariff barriers, but above all, taking advantage of market access opportunities.

The Caribbean Forum of ACP states (CARIFORUM) was the first, and so far the only ACP region to conclude a "comprehensive EPA" in 2007, signed in 2008, which includes commitments beyond trade in goods and ambitious commitments on trade in services, investment, intellectual property rights, competition and public procurement, which many regions in Africa are not yet ready to negotiate. Despite this advanced partnership with the EU, businesses have so far been quite slow to take advantage of new opportunities and the volume of trade has not significantly improved so far. The East African Community (EAC) has initialled a "Framework EPA" (FEPA) with the EU. Though the FEPA is yet to be signed, the region continues the negotiations towards a comprehensive EPA with the EU. It is however too early to assess whether the EPA has lived up to its expectations. But one could nevertheless draw some lessons from the experience of the CARIFORUM region, and in particular, on how its private sector has been involved in the negotiating process, what they have obtained in the Agreement and whether they are likely to play a role in the implementation process.

## 1.2. Methodology

While this paper uses the term "private sector", the term itself does not adequately reflect the diverse range of activities or the diverse size of firms or number of actors that exist in EAC or the CARIFORUM. This discussion requires the recognition of the heterogeneity of the group: street vendors, micro, small and medium sized enterprises (MSMEs) as well as large firms and multinationals are all stakeholders in the EPA process and it is obvious that no one-size-fits all strategy can be applied to "the private sector". This paper therefore aims to extract common principles that could guide strategic decisions.

The paper has had the valuable input from interviews with representatives from intermediary organisations and the public sector in CARIFORUM and EAC involved at various stages of the EPA trade policy formulation, negotiations and implementation process. The aim of these interviews was to analyse what actions government and intermediary organisations have undertaken to inform and involve the business community in the EPA process, and what has motivated them to take advantage of new trade and investment opportunities with the EU as a partner.

The discussion is structured as follows. Section 2 provides succinct information on the EPA process, whereas Section 3 sketches the economic fundamentals of the Caribbean and East African regions' trade with the EU. Section 4 then reflects on the CARIFORUM context. The negotiating process that

guided the CARIFORUM EPA is first reviewed. Then, the paper examines the commitments that need to be implemented under the EPA, with particular emphasis on their importance for the private sector. The private sector participation in trade in general and in the EPA process is analysed. Finally, challenges towards moving beyond traditional trade in implementing the full EPA are identified, and the implications of private sector participation in the EPA process to date are judged in this light. Section 5 provides insights into the EAC context, and the analysis follows a similar format to the Caribbean section. The challenges ahead of the EAC are discussed, be it in terms of implementing the current Framework EPA and in negotiating the full EPA. Section 6 draws lessons that can be learned from the CARIFORUM region for the EAC region.

## 2. Overview

On 31<sup>st</sup> December 2007, the World Trade Organisation (WTO) waiver<sup>1</sup> granted to the EU for its long-standing unilateral preferences to ACP countries expired. This marked the end of 33 years of historical and non-reciprocal trade relationship between the EU and the 77 ACP countries. Prior to that, provisions have been made in the Cotonou Agreement, signed in 2000 between the then fifteen EU member states and the ACP to replace the WTO-incompatible trade regime by a new set of reciprocal agreements, the Economic Partnership Agreements (EPAs), that would be signed on a regional basis<sup>2</sup> by the end of 2007. It was agreed that the EPAs would remove “progressively barriers to trade and enhance cooperation in all areas of trade”<sup>3</sup>, with ACP countries, in a position to do so.

Negotiations were long and protracted. At the time of the expiry of the WTO waiver, only 9 LDCs and 26 non-LDCs among the 77 ACP countries had initialled an EPA (*see Table 1 in Annex 1 for a current status of the Agreements*). The CARIFORUM<sup>4</sup> was the only region to have completed the negotiations on a full and comprehensive EPA. The outcome in other regions was less ambitious, due mainly to lack of time to finish negotiations, capacity constraints in areas which required specific technical knowledge and to some extent, political concerns, regarding the sequencing between trade negotiations with a major trading partner and the desire to first complete regional integration programmes.

At the end of 2007, an interim trade in goods only Agreement was finalised and initialled by those African and Pacific states who were threatened by the risk of trade disruption after the expiry of the waiver. Those that did not initial the interim EPAs (IEPAs) shifted either under the Everything-But-Arms (EBA) initiative<sup>5</sup> or the standard Generalised System of Preferences (GSP) scheme for non-LDCs: this became applicable to 32 ACP LDCs and 10 ACP non-LDCs respectively.

The initialling and signing of IEPAs by some countries also caused some serious political and economic tensions in almost all the regions and the EPA process was often accused of fragmenting and hindering

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<sup>1</sup> The Cotonou Agreement, which conferred unilateral, non-reciprocal preferences to ACP countries only required a “waiver” in the WTO because it was contrary to the basic rule contained in Article 1 of the GATT, which stipulates that all members must be treated no less than any other member (MFN principle), unless they belong to a regional trade agreement or an economic integration agreement that meets the requirements of GATT Article XXIV or Article V of the GATS.

<sup>2</sup> Six regions were initially identified, namely the Caribbean, the Pacific, the Eastern and Southern African (ESA) region, the Southern Africa Development Community (SADC) region, the Communauté économique et monétaire d’Afrique Centrale (CEMAC) region and the Economic Community of West African States (ECOWAS) region. In 2007, the countries member of the East African Community signed as one region EAC region.

<sup>3</sup> Article 36.1 of Title II on Economic and Trade Cooperation, Cotonou Agreement, 2000.

<sup>4</sup> CARIFORUM is composed of CARICOM and Dominican Republic. The 14 countries of Caricom are Antigua & Barbuda, Bahamas, Barbados, Belize, Dominica, Grenada, Guyana, Haiti, Jamaica, St Kitts & Nevis, St Lucia, St Vincent & Grenadines, Suriname and Trinidad & Tobago.

<sup>5</sup> EBA grants duty-free and quota-free market access (DFQF) for LDCs

regional integration processes.<sup>6</sup> To address these concerns, regions agreed that the full EPA negotiations would therefore be all-inclusive and would in particular, take into account the concerns of those who could not initial a deal in 2007: this would mean reviewing some of the clauses already agreed by some, but considered as “contentious” by others.<sup>7</sup> Although progress has been quite slow, partly due to difficulties in agreeing on the review of the contentious issues, negotiations in most regions towards a full EPA are still ongoing. The EAC region has yet to agree to a date for the signature of the IEPA but pursued negotiations in 2010 on contentious and outstanding issues<sup>8</sup> although the region is also currently focusing on its own internal regional integration process to establish an EAC common market.

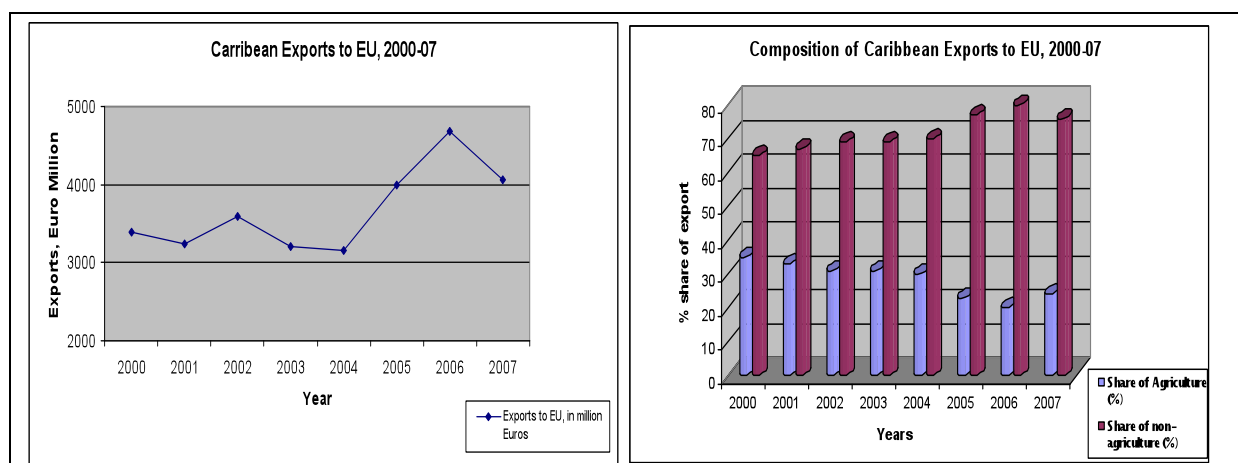
### 3. Economic Background

#### 3.1. Caribbean Trade relations with the EU

Under the previous non-reciprocal Lomé/Cotonou regime, the Caribbean region, like all the other ACP countries, enjoyed preferential market access on the EU market with relatively flexible rules of origin (RoO), compared to other developing countries with which the EU did not have a preferential trade agreement. This translated into a significant flow of trade from Caribbean countries to the EU, making of the EU an important trading partner for the region.

Figure 1 illustrates the trade relationship between the EU and the Caribbean countries under the Cotonou Agreement, for the periods 2000-07. Although in 2007, the Caribbean region represented only a small 0.28% of total EU imports, the EU market, for its part, represented 19% of total Caribbean exports, equivalent to € 4,066 million in 2007, slightly lower than in 2006. The composition of Caribbean exports was mainly industrial, with an increasing share of this sector, reaching 76% of total exports in 2007 and highly concentrated in very few products such as ships, fuels and chemicals.

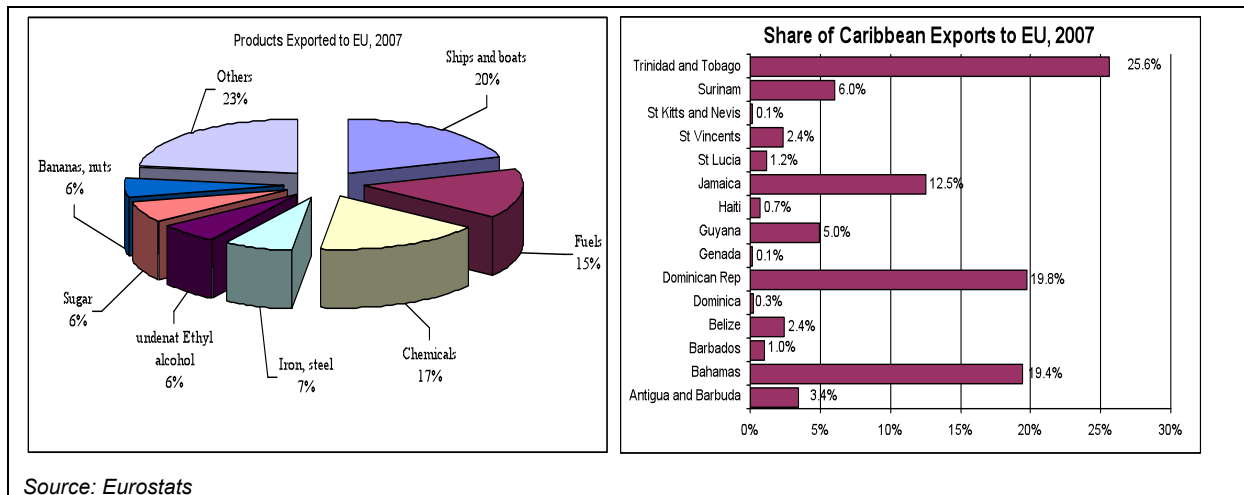
**Figure 1: Caribbean trade with the EU**



<sup>6</sup> For an analysis of the IEPAs and discussion on the EPA process, see Bilal ad Stevens (2009).

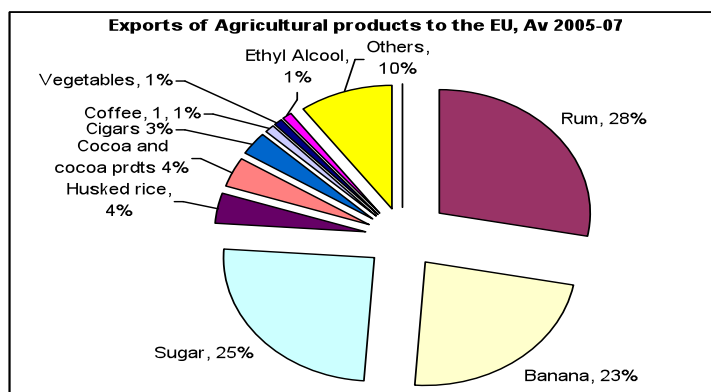
<sup>7</sup> For a discussion, see Lui and Bilal (2009).

<sup>8</sup> For accounts of the EPA negotiations, see ‘EPA Updates’ in *Trade Negotiations Insights*, [www.acp-eu-trade.org/tni](http://www.acp-eu-trade.org/tni).



Exports of agricultural products towards the EU, as depicted in Figure 2, were even more concentrated: three products, namely rum, sugar and bananas represented almost 75% of total agricultural exports to the EU between 2005-07. It is important to note that these commodities have, for a long time, benefited from a highly protected regime in the EU, under three specific Commodity Protocols, namely the Sugar Protocol, the Banana Protocol and the Rum Protocol<sup>9</sup>.

**Figure 2: Exports of Agricultural Products to the EU**



Source: Eurostats

The dependence of the Caribbean countries on these Protocols was, and still remains, very high: for instance, 72% of the total exports earnings to the EU of St Kitts and Nevis and 63% of total exports to the EU from Guyana came from their sugar exports. Similarly, bananas represented 88% of St Lucia’s total exports to the EU, 73% of Dominica’s exports to the EU and 41% of St Vincent’s exports to the EU. Bahamas and Trinidad and Tobago were particularly dependent on rum, with a respective share of 37% and 30% of their total export earnings from the EU.

The combination of preference erosion for agricultural products, coupled with the need to diversify the export structure of the region motivated the CARIFORUM countries to sign a full EPA with the EU. Clearly a new trade arrangement that focused on issues beyond trade in goods was seen as a chance to access new trading opportunities on the European market and to promote development objectives.

<sup>9</sup> The Rum Protocol was abolished in 2000, with the coming into effect of the Cotonou Agreement, following the unilateral liberalisation of the EU rum market. Caribbean countries maintained a high market share in the EU. Under the Cotonou Agreement, the Banana and the Sugar Protocol were extended. However, EU’s Banana regime of imports and licensing system was challenged at the WTO by the major banana exporters. As a result, major reforms took place within the EU (following decade long dispute under the GATT). The sugar protocol was denounced in 2007 by the EU, and transitional provisions were included in the EPA.



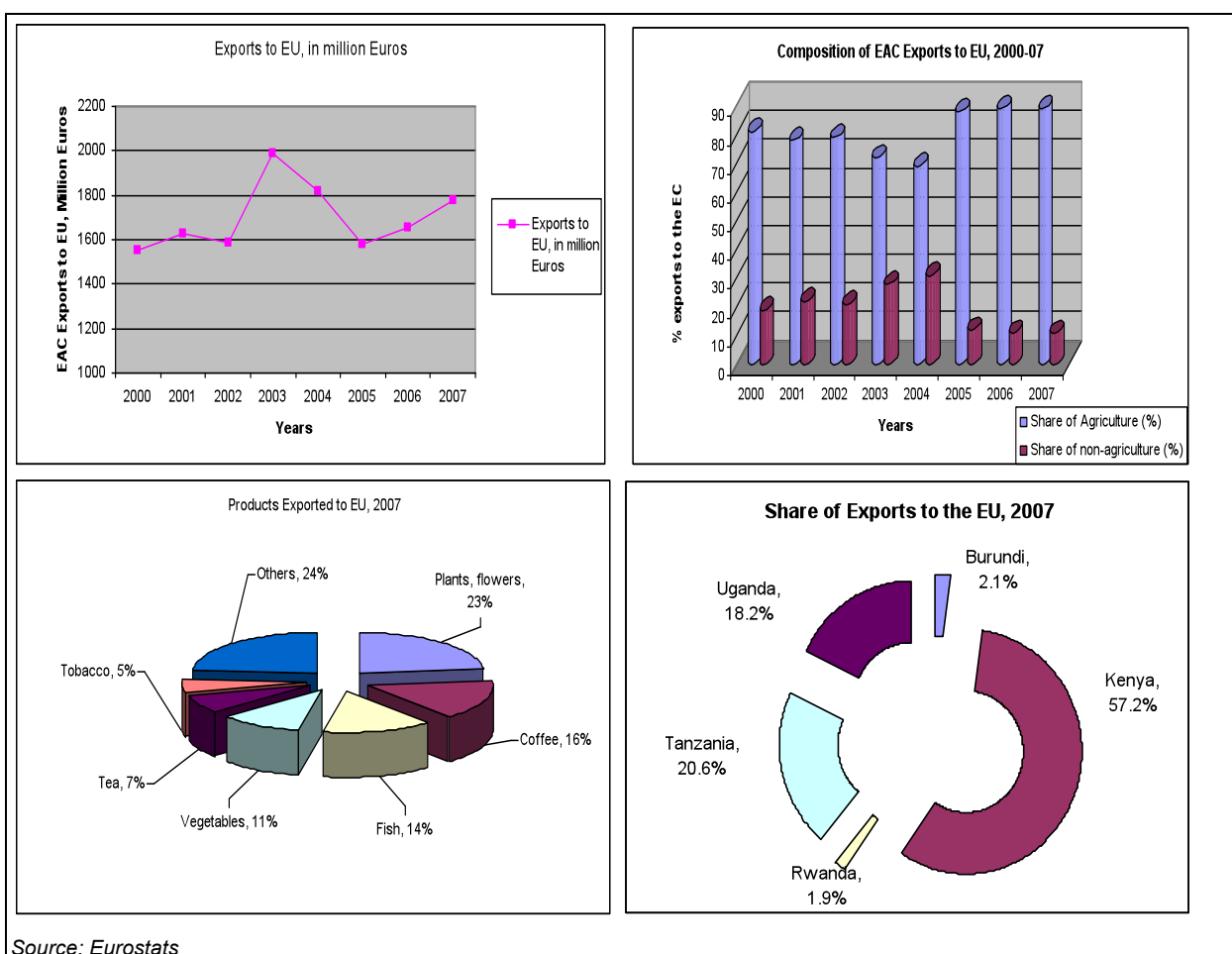
Furthermore, there was a need for a fundamental shift in the nature of the export structure, to lay more emphasis on services and investment, the major future drivers of growth of the region.

### 3.2. EAC Trade Relations with the EU

Similarly to the Caribbean region, the EAC has been enjoying long standing preferences on the EU market for the past 33 years. Although having a starkly different economic and trade structure than the CARIFORUM region, the EAC countries have exported 30% of their total products to the EU, with a marked dependence on a few agricultural products. Indeed, exports of agricultural products totalled 89% of total EAC exports to the EU in 2007.

Figure 3 illustrates the trade structure of EAC countries with the EU between the periods 2000-07. After a sharp decline in 2004 and 2005, reflecting the fall in the share of industrial product exports to the EU, the value of exports to the EU increased in 2006 -07. While Kenya has been a major driver of extra-EAC trade (57.2% of EAC exports in 2007), the export structure of the EAC region was highly concentrated in few products: coffee was the dominant export to the EU for Burundi, Rwanda and Uganda, with a share of exports of 87%, 67.7%, 39.8% respectively in 2007, flowers were the main exports product of Kenya and fish the main export of Tanzania.

**Figure 3: EAC trade with the EU**



Source: Eurostats

It is important to highlight the significant economic differences between the Caribbean region and the EAC region (see Tables 2 and 3 in Annex 1). Largely dominated by middle-income, small islands states, the level of development in the Caribbean region seems relatively homogenous, although each island has its own economic and trade structure. While most economies are small in size, some are largely

dependent on agriculture (sugar, rice or banana) and others have an industrial base assembling ships, boats or producing chemicals or iron and steel. Others still, are more services oriented, largely dominated by tourism. With the exception of Haiti, the remaining islands are developing countries with an average per capita income of US\$ 2,960.

On the other hand, the EAC region is largely dominated by LDCs, the only developing country being Kenya. The level of development of the region is therefore highly heterogeneous, with Kenya having a relatively diversified economic base, while others being dependent on agriculture and heavily concentrated on a few products (tea, coffee or tobacco). The region has a relatively low average per capita income of US\$ 425. However, unlike their Caribbean counterparts, trade in goods remain the key source of revenue for most EAC states, while the services sector remains relatively undeveloped, in particular in the LDCs.

It is worth mentioning that the CARIFORUM<sup>10</sup> and the EAC were the only two regions to negotiate an EPA as a region, although market access offers were presented individually by each member state. The degree of integration of these two regions was sufficiently advanced to allow them to negotiate as a group. Both regions have established a common market<sup>11</sup>, although not fully operational. However, CARIFORUM demonstrated a higher degree of readiness to negotiate as a group, given the advanced regional integration agenda already established in trade in goods, investment and labour mobility. EAC, for its part, is in the process of establishing a common market, with a Common External Tariff (CET) already agreed, although not fully applied. Common regional rules regarding services, investment and other trade-related issues have not yet been agreed: this was reflected in the sequenced approach during the EPA negotiations.

The above overview relates to the pre-EPA period. As mentioned earlier, it is too early to estimate the real impact of the new agreements on the trade relationship between the two regions and the EU. However, given the high dependence on trade preferences by both regions, it is unlikely that their trade pattern will change significantly, at least in the short term. It is important to note that the differences in the economic and export structures of both regions and their diverse interests in the EU market, led to significantly different outcomes of the EPA negotiations.

## 4. The CARIFORUM context

### 4.1. The Negotiating Process

To appreciate the complexity of the EPA negotiating process, it is important to understand the various layers and structures that were set up in the Caribbean region to ensure proper consultation with all stakeholders, including the private sector at national and regional level (*see the CARIFORUM negotiating structure at Annex 2*). Several fora were established to formulate regional positions: first, at the national level, member states held consultations, involving private and public stakeholders to agree on common national positions and interests. In parallel, entities operating at the regional level also

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<sup>10</sup> With the exception of the Dominical Republic, all other countries of the CARIFORUM are all members of CARICOM, a regional organisation, which established a CARICOM Single Market and Economy on 1<sup>st</sup> January 2006 and intended to be fully in place by 2015.

<sup>11</sup> In the case of the CARIFORUM, although a FTA is in place, a limited customs union is applied, with a relatively porous Common External Tariff, which contains many exceptions. Regarding Investment, Article 32 of the Treaty of Chaguaramas grants the right to persons, companies and other legal entities, such a partnerships, to engage in commercial, industrial and agricultural activities. Labour mobility was granted for the purpose of engaging into economic activities in specific categories such as graduates, sports persons, artists, nurses, teachers or media persons.

conducted consultations to articulate common positions. Following this, national and regional interests were coordinated, harmonised and refined in regional technical working groups, which included the representatives of government, private sector and non-state actors. Finally, regional positions were presented to the college of negotiators, which, after obtaining guidance and approval from the CARIFORUM Council of Trade and Economic Development, the CARIFORUM Council of Ministers and the CARIFORUM Heads of Governments, conducted the negotiations on behalf of the region.

Regular consultations were conducted with the “traditional” goods and services stakeholders (i.e those sectors that were already trading on the EU market) during the negotiations phase, both at the national and regional level. Generally speaking, such well-established sectors were already active in all spheres of trade negotiations in order to survive international competition. In the case of bananas for instance, they proved particularly efficient at the WTO to defend their interests. When they could not maintain preferences as a result of WTO incompatibility or internal reforms within the EU market, as was the case for banana and sugar, they have been able to table requests for assistance and benefited from accompanying measures to initiate their own reforms to improve the competitiveness of their industry and to diversify outside and within their respective sectors. The “traditional” goods exporters had strong defensive positions: their main concerns were to maintain and improve their market access to the EU, which was at risk if the EPA was not signed, while ensuring domestic protection against imports from the EU for products where they had a local market share. They had strong advocacy skills and were able to propose well-informed and articulated positions during the negotiations.

Negotiations in the services sector were more offensive than in the goods sector. As the largest services exporter to the EU, the tourism sector has been the most active representative<sup>12</sup> during the negotiations, presenting clear positions that were well reflected in the EPA text and in the commitments taken by the EU<sup>13</sup>.

Unlike the large private sector stakeholders in traditional goods and services sector however, small and non-traditional stakeholders were less able to put forward clear offensive positions. They usually did not have a properly organised forum to discuss and articulate their strategies, which were themselves diverse and heterogeneous. They also had limited technical capacity to formulate strong positions and to advocate interests and concerns as well as limited financial capacity to participate in the negotiations. As a result, negotiators were only able to defend the status quo or rely on priorities identified by government, which sometimes did not necessarily reflect the real needs of the stakeholders.

Now that the full EPA has been signed, one of the main challenges remains the implementation of the commitments. Given their little interaction with policy makers, many small and non-traditional stakeholders might not be fully aware of obligations taken by the region and the countries nor of the new market opportunities that are now available. As a result, they may not take the necessary reform measures on time to improve their competitiveness and their productivity in the face of increased imports of competing products. From the experience of those who were active in the negotiation process, it is fair to say that certain pre-conditions for participation are necessary: sectors need to have knowledge of the stakes, the capacity to advocate and articulate clearly and strongly and have an effective platform for

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<sup>12</sup> Of all of the tourism stakeholders, the Caribbean Hotel and Tourism Association stands out the most in terms of its active engagement in the negotiation process and the extremely active role it played in co-ordinating the region’s tourism private sector.

<sup>13</sup> In a 2008 analysis, the ITC analysed the role of Business Advocacy in the CARIFORUM EPA negotiations in tourism services liberalisation: “The Caribbean Hotel and Tourism Association’s involvement in the EPA negotiation process included the formulation and submission of a position paper in 2005 and a first draft of the text for a declaration/EPA Annex on tourism, in collaboration with the Caribbean Tourism Organisation in 2006; encouraging the active engagement of its membership in the negotiation process by emphasising the importance of trade issues for the industry; polling members to gauge their views on particular issues; and participation in the Caribbean Regional Negotiation Machinery’s Technical Working Groups” (ITC, 2008).

dialogue with government. To accomplish this successfully, they need be well-organised and have the trust and confidence of their members.

New market access is a necessary but not a sufficient condition for businesses to participate in trade. As the history of preferences confirmed, the EU's Duty Free Quota Free (DFQF) offer may not be the major catalyst that is expected to transform the trade structure and relationship with the EU at least in the short-term. Complementary measures are needed to unlock the benefits of the Agreement: these include among others flexible rules of origin, the implementation of efficient customs and trade facilitation measures, effective trade defense measures and technical assistance and financial measures that would be necessary to accompany countries in their reform process.

## 4.2. Commitments to be Implemented under the EPA

As mentioned earlier, CARIFORUM countries<sup>14</sup> and the EU have made reciprocal but asymmetrical commitments in the EPA covering goods, services and investment and trade related issues such as innovation and intellectual property, competition policy and public procurement. The market access aspect of the former commodity protocols that governed trade between the EU and the ACP for sugar, bananas and rum has been incorporated into the EPA and the cooperation aspect replaced by special programmes.

### 4.2.1. What has been liberalised?

With regards to trade in goods, the CARIFORUM countries have reduced tariffs vis-à-vis the EC in several phases. Liberalisation will begin after a 3-year moratorium, that is in 2011. The schedule is as follows:

1. In 2009, all products that were already faced with an applied rate of 0% or close to zero percent in CARIFORUM region were committed to be 0%. This represented a total of 52.8% of its imports from the EU;
2. By 2013 (i.e 5 years after the implementation of the Agreement), CARIFORUM will remove duty on a total of 56% of its imports;
3. By 2018 (i.e 10 years from the date of implementation), a total of 61.1% of its imports from the EU will be duty free.
4. By 2023 (i.e 15 years after implementation), duties will be removed on a total of 82.7% of imports; and
5. By 2033 (i.e 25 years from the date of implementation), a total of 86.9% of products will be liberalised.

Tariffs on very sensitive products such as food items have been excluded from liberalisation, representing altogether 13.1% of products imported from the EU.

On the EU side, all products originating in CARIFORUM countries benefited from a duty and quota free access regime as from 1 January 2008. This was an improvement compared to the preferential treatment granted under the Cotonou Agreement for some agricultural products. Access for CARIFORUM rice became DFQF after a transition period of 2 years, ending on 31 December 2009, after a gradual increase of the in-quota from 187 000 tonnes to 250 000 tonnes in 2008 and 2009 respectively, compared to the former quota of 125 000 tonnes. The in-quota duty has now been eliminated, compared to the Euros 65 per tonne duty normally applied.

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<sup>14</sup> Antigua and Barbuda, the Bahamas, Barbados, Belize, Dominica, the Dominican Republic, Grenada, Guyana, Haiti, Jamaica, Saint Lucia, Saint Vincent and the Grenadines, Saint Kitts and Nevis, Suriname, and Trinidad and Tobago.

For sugar, access became DFQF as from 1 October 2009, subject to a transitional automatic safeguard mechanism until 30 September 2015. For the period starting 1 October 2008 to 30 September 2009, while the Sugar Protocol remained in force, a quantity of 60 000 tonnes of sugar at zero duty (additional to the quantities under the Sugar Protocol) was granted to CARIFORUM countries. 30 000 tonnes of this tariff rate quota was reserved for the Dominican Republic which so far had no preferential access under the Sugar Protocol.

Although trade in goods is of considerable importance to the region, as small islands developing economies, the Caribbean region emphasised strongly the importance of services and investment sectors as well as on other trade related issues, which were important tools to support the overall trade development. It must be stressed that this Agreement was the first of its kind to provide a legal framework to facilitate the flow of services and investment and to provide access to the EU market in a wide range of sectors. Sectors of particular importance include the tourism industry, which is a key source of revenue for many Caribbean islands, the entertainment industry (music and film in particular), and financial services among others. Temporary movement of persons, in specific areas where some countries have a comparative advantage have also been secured.

#### **4.2.2. What's in it for the Private Sector?**

##### *Trade in Goods:*

There have been improvements in RoO in areas such as textile and clothing, which can now be produced from non-originating materials as well as cigars and smoking tobacco, where 40% by weight of unmanufactured tobacco can be sourced from outside the CARIFORUM, compared to 30% under Cotonou. Other products where RoO have been improved include biscuits and other bakery products, jams and jellies, fruit juices and other beverages.

Banana producers are also expected to benefit from a Special Framework of Assistance to help to improve the productivity of the industry and develop alternatives within and outside the industry and help them address social adjustment costs.

In the agriculture chapter, the EU committed to eliminate export subsidies on all agricultural products for which the CARIFORUM would eliminate tariffs (commonly known as the zero for zero treatment for EU export subsidies). Also, firms in the agriculture and fisheries sector would benefit from EU development support in fields such as market development, innovation, investment promotion support and international health standards for fish and fish products. Regarding sanitary and phytosanitary (SPS) measures, the private sector would be able to avail of the provisions of technical assistance to facilitate the compliance to international standards.

Private sector is also expected to be subject to less administrative procedures: a single administrative document or its electronic equivalent would replace the numerous documentary requirements and therefore facilitate trade.

##### *Trade Related Issues*

The CARIFORUM EPA contains an important chapter on trade defense measures, which can allow countries to impose temporary barriers to trade, including the re-introduction of tariffs, in the event of a surge in imports that would cause injury to the domestic industries.

Customs and trade facilitation provisions are expected to simplify procedures for goods clearance. Furthermore, financial and non-financial support mechanisms would assist countries to strengthen and

upgrade their customs techniques, including the automation of customs and trade procedures. This will help reduce the cost of doing business.

### *Trade in Services*

Service activities play a critically important role in Caribbean economies, accounting for approximately 62 percent of CARICOM's (CARIFORUM minus the Dominican Republic) total exports (excluding Trinidad and Tobago) and four-fifths of exports of the Organisation of East Caribbean States (OECS)<sup>15</sup>. There is a significantly higher volume of trade in services compared to trade in goods between CARIFORUM and the EU, with tourism and travel-related services representing around 60 percent of all CARIFORUM services exports to the EU.<sup>16</sup>

Services and investment provisions include reciprocal but asymmetrical commitments, with gradual and effective market opening for both parties. The provisions of the Agreement however do not affect national policies as regards public services, such as education and health, and the parties retain the right to regulate services sectors and enact new domestic regulation.

Commitments made both by the EU and by CARIFORUM countries include market access opportunities for services suppliers and investors for cross-border supply of services, commercial presence, including commitments for the temporary presence of natural persons for business purposes across most sectors.

CARIFORUM countries adopted comprehensive rules and made significant offers, in particular in export-oriented and infrastructure sectors key for their development, such as telecommunications, financial services, transport, tourism, manufacturing and environmental services. In the case of tourism, which is by far the most important service sector in the region, large firms will be prevented from anti-competitive business practices. This is expected to enhance the development of the smaller players in the region. There are also provisions relating to mutual recognition of qualifications and technical assistance to help improve the competitiveness of the sector.

The EU has taken commitments in services on more than 90% of the sectors, ranging from business services, communications, construction, distribution, financial, transport, tourism and recreational services. In the case of investment, the EU has opened almost all sectors for CARIFORUM states, with only a few exclusions and limitations, mainly applicable to its new member states. Commitments in the investment sector are expected to allow regional firms to set up operations in the EU and to allow EU firms to establish in the CARIFORUM region, fostering competitiveness through possible joint ventures and other types of partnerships.

Regarding the temporary movement of natural persons, the EU has granted significant market access for Caribbean firms' contractual services suppliers in 29 sectors for a maximum of up to 90 days in a calendar year, once they obtain a contract and subject to conditions stipulated in the services chapter. The EU has also opened 11 sectors for independent professionals, including sectors such as tourist guides, entertainers, artists, chefs de cuisine and fashion models or self employed, including some legal advisory services, computer related services and management consulting. Although in some sectors, certain EU Member States retain the right to apply economic needs tests, there are no quotas on the amount of service suppliers that can enter the EU market. It has also offered access to graduate trainees from CARIFORUM states.

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<sup>15</sup> OECS member countries include Anguilla, Antigua and Barbuda, Dominica, Grenada, Montserrat, Saint Lucia, Saint Kitts and Nevis, Saint Vincent and the Grenadines.

<sup>16</sup> See Sauvé and Ward (2009).

Entertainment services were particularly important for the CARIFORUM countries, in which the latter are relatively competitive. Activities that were liberalised include artists and cultural practitioners, dance, theatre, visual arts, as well as sculptors, authors and poets. Also Caribbean artists, musicians and other cultural practitioners who are registered under businesses can supply entertainment services to the EC. This market access was complemented with a historic and innovative Protocol on Cultural Cooperation, which provides for greater cooperation on all cultural fronts, with special provisions on audiovisual. Once CARIFORUM states complete cooperation treaties with EU, Caribbean audiovisual producers would be able to access funding for creative projects.

### 4.3. Private Sector Participation in Trade

The majority of exports to the EU, both in terms of goods and services, have traditionally largely been dominated by a handful of large, well-established companies. The trade structure of Caribbean countries reveal that in the field of agriculture, for example, exports are concentrated in three main cash crops, namely sugar, bananas and rice. These are grown on relatively large-scale plantations, owned by “large” farmers, who have a well-organised production and marketing structure<sup>17</sup>. They are the ones who have so far benefited from the preferential access to the EC market. Similarly, exports of non-agricultural products are concentrated in a few products, mainly in petrochemicals, oil production or mining activities, which are also owned by large enterprises, some of them being multinationals.

However, according to the International Labour Organisation (ILO), it is estimated that 70 percent to 85 percent of all business activity in the Caribbean is conducted by micro, small and medium-sized enterprises (MSMEs). Although the definition of MSMEs varies across countries, it is generally defined in the Caribbean region as follows:

1. Micro enterprises are usually own-managed, employ less than 5 persons and have less than US\$25,000 investment in equipment.
2. Small enterprises employ less than 25 persons, operate under 4,000 square feet, have an annual investment in equipment (excluding in real estate) of less than \$50,000 or an annual sales of less than US\$ 125,000
3. Medium enterprises employ less than 50 persons, with an annual investment in equipment of up to US\$ 240,000 and annual sales of less than US\$ 1 million.

MSMEs are generally engaged in manufacturing, commercial, services and agricultural establishments and range from the most modern and up-to-date enterprises to the simple, independent and traditional ones, many of which operate in the informal sector. However, there is little statistical data about the size, distribution of employment and performance of the informal sector in the Caribbean region. The largest sub-sectors of the MSMEs are involved in the manufacturing sector, in particular in food processing, furniture/woodworking, garments, handicraft and consumer goods and in services activities, such as transport, tourism or construction. Most enterprises produce principally for the domestic market.

Paradoxically, despite the large number of MSMEs in the Caribbean region, most of them have so far not been directly involved in trade with the EU: they are however very important in the value chain production process and therefore provide important inputs and ancillary services to the export industries, often called the “backward and forward linkages”. Although indirectly, as such, they play an essential complementary role in the process and largely contribute to economic growth.

<sup>17</sup> Richard Bernal, principle negotiator for the CARIFORUM-EC EPA for the CARIFORUM region has written a first hand account of the involvement of the private sector in the negotiating phase of the EPA: “Some sectors were well organized; in particular rum, sugar and bananas that had been involved in international trade for decades, and were steeped in the art of lobbying government and regional organizations. In some instances, with permission, their representatives attended some of the negotiations, notably the poultry sector, which identified and provided a technician to the negotiating sessions to watch their interests.” (Bernal, 2008).



The development and competitiveness of these enterprises are affected by a number of constraints, among which are low level of technical and managerial skills, low levels of productivity and quality, insufficient access to market, lack of linkages within the sub-sector and other sectors of the economy, high cost of finance and difficulties in accessing credit and inadequacy of infrastructure.

One of the objectives of the full EPA was to help countries diversify their small production base from a highly concentrated traditional trading relationship with the EU. It was also an opportunity to create space and prospects for smaller producers by enhancing the direct participation of MSMEs. Despite the fact that consultations were regularly held during the EPA negotiations phase, the MSMEs have not been significantly involved, mainly for two reasons:

1. The lack of organisational structure, including intermediary organisations that could represent and defend their interests; and
2. Their initial little involvement in trade with the EU, which kept them away from the club of exporters, although they could have played a significant role in articulating their interests to improve their trade potential.

To increase the involvement of the private sector in the EPA, including that of the smaller players, the capacity of those that have not benefited from trade to access the local/ regional/global and EU market needs to be significantly improved: this includes developing their negotiating skills, their marketing capacities, improving the quality of their products and building their competitiveness amongst others.

Furthermore, firms must be encouraged to establish durable, effective and long-term relationships among themselves for their mutual benefits. Relationship needs to be established and strengthened among those who are at the forefront of trade and those who provide the related “forward or backward linkages”. Building networks among themselves is key to pool resources together to meet the demands of the increasingly challenging local and international markets.

#### 4.4. Implementing the EPA: Moving Beyond Traditional Exports

Now that the EPA has been signed, it is the responsibility of national governments, regional institutions and private sector stakeholders to:

1. Comply with the commitments made and implement the provisions of the Agreement;
2. Create the opportunities and conditions necessary for stakeholders to take advantage of the commitments made; and
3. Adjust to the new trading environment by undertaking the appropriate reforms, where necessary.

Complying, creating and adjusting necessitate substantial technical, institutional and above all financial resources, which the development component of the EPA is meant to address. This would need to be addressed through an effective implementation of the development chapter, meant to tackle supply-side and other constraints that may be faced by CARIFORUM states in their efforts to modernise their respective economic and trade structures.

Efforts require effective and collective responsibility of government and the private sector. Good state-business relations are key to ensure effective participation of the private sector in the decision-making process and improved effectiveness of government in supporting and strengthening private sector activities.



The private sector needs to be proactively involved by:

1. Setting up regular inter-firm collaboration platforms;
2. Clustering activities, where possible, to benefit from economies of scale, given the small size of enterprises.
3. Developing and implementing business operation practices and strategies, such as trade and investment policies, export strategies or marketing strategies;
4. Strengthening existing domestic firms, both small and large, creating new innovative firms and graduating many informal firms into the formal sector.

On the part of the government, this includes, *inter alia*:

1. Ensuring effective implementation of the commitments in the Agreement;
2. Undertaking the necessary macroeconomic, institutional and legal reforms, including the setting up of a mechanism to assist those sectors that would stand to lose from the liberalisation; commitments and those sectors who have the potential to benefit from new emerging opportunities; and
3. Being a facilitator by establishing a regular platform to encourage private-public dialogue, which would help to assess to what extent stakeholders effectively benefit from the Agreement and to attempt to find solutions to problems that may arise from its implementation.

Challenges are multidimensional: while barriers to trade, transport and communication costs are going down internationally, the private sector is increasingly required to add more value to their products in order to remain competitive with other lower cost producers. Technological progress constantly creates products and modifies traditional trade practices from production to marketing to logistics. New trade rules require firms to comply with higher standards (environmental, SPS or labour). Against this backdrop, the private sector needs to adjust and adopt new approaches and invent new ways of cooperating to foster competitiveness. Improving competitiveness would require strong, coherent and ambitious economic, political and social policies.

While new opportunities are now available under the EPA, reaping the benefits needs to be complemented by profound reforms on the part of Government to implement commitments made, including carrying out, where necessary, legislative and policy changes. It also necessitates the establishment of priority areas where trade capacity building is required, as well as efforts on the part of the private sector to improve their productivity and competitiveness to be able to integrate into the global value chain through trade and investment. However, the options available to the private sector are closely related to the quality of institutions and the business environment. Technical and financial backup from the EU are essential to assist both government and the private sector in their endeavour. If the environment is weak, the ability of the private sector to detect market signals and hence invest and grow will be equally weak.

#### **4.4.1. Improving business environment: a sound macroeconomic environment**

The goods chapter of the EPA contains a number of 'hard' provisions committing CARIFORUM governments to simplifying customs procedures and enhancing trade facilitation measures. Governments will have to enact and reform laws, policies and regulations to implement the EPA. The EPA is intended to "lock in" commitments that governments make into a legally binding arrangement thereby introducing transparency and predictability into the trade relationship. As the EPA is implemented, complying with the commitments will contribute to creating a predictable and sound business environment for the private sector to do business domestically and to trade with the EU.

At the same time, there is great concern that the spill over effects of liberalisation in the EPA may also have a negative impact on economic development and for the private sector in general. In particular, there are fears that liberalisation may cause revenue losses for government as a result of tariff phase

down, increased imports that may drive out small businesses and the resulted adjustment costs as a result of a new competitive trading environment and implementation costs of complying with commitments.

Improving the business climate for conducting business is therefore an important element to unlock the potential of the private sector. Many of them are constrained by cumbersome bureaucratic procedures in setting up, operating and growing a business. Although the EPA contains important provisions to enhance the bilateral business relationship between the EU and CARIFORUM states, national governments need to set the right business environment.

It is widely recognised that a stable, predictable and enabling business environment is necessary, and even essential for the private sector to evolve and perform efficiently. The recent financial crisis has renewed interest in good rules and regulation. Through its “Ease of Doing Business Report”, the World Bank has developed a series of indicators to measure the regulations applying to formal domestic small and medium companies during their life cycles. The aim is to provide an objective basis to understand and improve the regulatory environment for businesses. In a nutshell, the indices provide a quantitative measure of regulations for starting a business, dealing with construction permits, employing workers, registering property, getting credit, protecting investors, paying taxes, trading across borders, enforcing contracts and closing a business.

According to the 2009 World Bank Report (see *Table 4 in Annex 3*), the Caribbean region’s competitiveness is relatively low, reflecting its high costs of doing business. Most of the Caribbean countries’ overall performance of doing business is ranked in the bottom 50%, out of the 183 countries rated in 2009. This is due to high transaction costs, rigid labour markets as well as weak administrative and customs procedures. Although market access openings are key to business operators, it is essential to improve the business climate, since high transaction costs may render the opportunities unattractive or even nullify their effects. Reforms to improve the business environment are a necessary complementarity to any trade initiative: the high costs of doing business are important elements that any business operator would consider before making investment decisions.

The EPA process in the Caribbean is likely to be implemented in a fragile macroeconomic and structural environment, in particular in the wake of the economic and financial crisis. It is therefore important for the region to address its internal and domestic constraints, in terms of trade, macroeconomic and institutional weakness. Although many of those go beyond trade and cover a large range of issues, such as macroeconomic imbalances, small economic size, infrastructure deficiencies, and economic vulnerability, they need to be urgently addressed if countries want to make the most of new market opportunities. Thus, reaping the benefits of greater openness will require that complementary reforms and policies be implemented prior to, and in conjunction with, trade reform.

#### **4.4.2. Building trade and investment capacity**

Private sector stakeholders, including the MSMEs must be able to respond quickly and efficiently to the changing trade environment. The new EPA offers them a wide range of market access opportunities in goods and services. This means they need to have the technical capacity to access the market and be productive and competitive to penetrate the market.

The setting up of efficient business support systems, complemented by capacity building, are therefore essential conditions. This requires the setting up of new and strengthening of existing support agencies, including financial institutions. It could include:

1. Capacity building in business services, such as marketing, product development, advocacy skills, accounting, advertising, logistics and market analysis and research; It can be provided by specific expert organisations, bodies representative of the private sector both nationally regionally and by

the EU. The Caribbean Association of Industry and Commerce (CAIC), which is the regional umbrella organisation for the private sector in the region and represents their interests at regional and international level,<sup>18</sup> already provides certain business development services. This needs to be substantiated by an effective EU-CARIFORUM business council.

2. The development of clear national and regional strategies for export development and promotion, that would also assist companies to increase their volume and value of imports. It needs to be done jointly by government and the representatives of the private sector, such as the CAIC.
3. The strengthening of the export promotion agency: the Caribbean Export Development Agency (CEDA) is the regional trade and investment promotion organisation of the CARIFORUM member states (and therefore also represents the Dominican Republic)<sup>19</sup>. In the EPA Implementation Roadmap, the CEDA is proposed as one of the main implementing agencies at the regional level. However, CEDA is externally funded and fluctuation in financing has negatively impacted its capacity to deliver its services<sup>20</sup>. Despite this, it has a reliable track record and is viewed as a competent and credible organisation that has the trust and confidence of members. Although there is no EPA implementation programme yet, EPA implementation is considered to be part of its mandate. To date CEDA is working closely with a regional coalition of service industries that is emerging in some countries, namely in Barbados, Trinidad and Tobago, St Lucia and Jamaica.
4. Strengthening the role of intermediary organisations is essential, in particular to reinforce the legitimacy of the informal sector and enhance the participation of smaller stakeholders.

#### **4.4.3. Access to finance**

Access to finance is essential for improving MSME competitiveness and to help them invest in new technologies, skills and innovation. One of the problems faced by MSMEs is the lack of accessible, flexible and affordable financing mechanisms adapted to their needs and specificities. This is due to their lack of collaterals, low creditworthiness in terms of business experience, low capitalisation and high risk involved in limited management and uncertain market access.

Access to finance issues cannot be resolved simply by implementing financing schemes. These have to be accompanied by institutional reforms that would mainstream MSME development in national development plans. And it is also noteworthy to add that efforts to resolve access to finance issues are not solely the responsibility of governments. MSMEs also need to work together, including through their intermediary organisations, to implement sound business practices and to continuously invest in good internal management systems such as accounting, planning, financial, operations and human resource management. Such practices would improve their “credit ratings” and therefore their chances to have access to finance.

#### **4.4.4. Improving policy coherence in Development Assistance**

The development cooperation chapter of the EPA provides the general framework for the EU to provide development support, which is necessary to implement the commitments of CARIFORUM States. CARIFORUM States are yet to come up with a clear road map, with established priorities, to benefit from the provisions.

The EPA itself contains no additional and binding financial commitments beyond the European Development Fund (EDF). The 10<sup>th</sup> EDF, both for the National Indicative Programmes and the Regional Indicative Programme (NIPs/RIP) provided for in the Cotonou Partnership Agreement (CPA) was already committed before the signature of the EPA and does not explicitly and necessarily cover EPA costs and the related development cooperation provisions. The strategy and allocations of the Regional Strategy

<sup>18</sup> <http://www.caic.org.tt>

<sup>19</sup> <http://www.carib-export.com>

<sup>20</sup> Project finding includes EDF, Bizclim, ProInvest, Commonwealth Secretariat, UNIDO, OAS, Canada and China.

Paper<sup>21</sup> under the 10<sup>th</sup> EDF however have a strong focus on regional economic integration and cooperation, including EPA implementation and capacity building.

Although there is some scope for increasing the coherence between RIP/NIPs and EPA commitments, the two cannot be aligned in the short-term. To successfully align financial assistance with public and private sector EPA priorities, there is a need for early engagement of the private sector in the RIP and NIP programming process, both at the national and the regional level.

The tourism sector in the CARIFORUM region is an example of private sector involvement at all stages of the EPA process and significantly in EDF programming. The tourism sector is thus one of the few that is likely to have access to financing in the first five years of EPA implementation. In addition to EDF financing, CARIFORUM must work together with EU member states and the international donors' community to fund activities related to EPA implementation, adjustment and accompanying reforms.

However, there is a need for effective policy coordination to ensure that development assistance is well targeted towards priority areas that would help unlock the benefits of the Agreement. Policy coordination is therefore needed at four levels:

1. Between the private sector and the government;
2. Among the individual CARIFORUM governments;
3. Between the national governments and the regional implementation agency, and finally
4. Between the regional implementation agency and the EU (and other donors).

This is easier said than done and would require strong institutions and intermediary organizations at all levels that have the capacity to play a leading role in policy coordination.

#### 4.4.5. The Global Economic Crisis

The EPA is being implemented in the midst of a global economic crisis<sup>22</sup>. Donor funding for aid for trade measures is under pressure and not all financing targets are likely to be met – let alone increased. This effect is compounded by several governments in the region seeking assistance from the International Monetary Fund (IMF) to overcome the global economic crisis. The conditions attached by the IMF will likely restrict public sector policy responses to stimulate the economy, which might have a counter effect on the implementation of the Agreement.

While the EPA 'enthusiasts' believe that EPAs could become an antidote to the global crisis and a credible guarantee against future backlashes and policy reversals that would erode the prospects for domestic growth, the EPA 'sceptics' believe EPA commitments may exacerbate rather than alleviate the negative effects of the crisis and undermine ACP countries' ability to respond to similar crisis in the future<sup>23</sup>. In the CARIFORUM region, both voices are equally as loud. Now that the EPA has been signed, the region can only address this question on the pragmatic, rather than ideological level. Trade and investment flows and implementation need to be carefully monitored to provide evidence-based decisions on possible adjustment measures.

But the EPA would first need to be effectively implemented, including its development chapter. The CARIFORUM region and countries must enhance their efforts to design targeted implementation strategies and actions as well as to elaborate projects and programmes for accompanying measures;

<sup>21</sup> Regional integration has been designated as the focal sector for support, receiving €143 million – of which €72.6 million (or 44 percent of the total RIP allocation) is earmarked specifically for EPA implementation and accompanying measures. The EPA-related resources available under the NIPs amount to €480 million and those programmed by the UK and Germany €26.8 million. In total, at least €580 million is estimated to be clearly marked by the EU for EPA support. (See ODI, ECDPM and CAPRI (2009))

<sup>22</sup> For a full discussion see Bilal, Draper and te Velde (2009) and Bilal and Dalleau (2010).

<sup>23</sup> See Bilal *et al.* (2009).

they also need to ensure that proper coordination is done, between regional and national levels, as well as between public and private actors, including in the context of the EDF programming. Technical support, where necessary, would also need to be identified and sought from the EU (Community and Member States) and other donors.

Small islands developing states are particularly vulnerable to exogenous shocks, including natural disasters that have not spared the region in recent months. At a time of multiple concurrent crises, to the priority has been to respond to their immediate food security, energy, financial and environmental needs. Implementation of the EPA must be seen as part of CARIFORUM's global response to the world economy, not in direct response to the EU. Careful consideration of the external factors implies there is a need for a realistic vision of how quickly the EPA can be implemented and when the region can expect to see tangible results. A well-prepared and deeply involved private sector is, in that respect, a key condition to reap the potential benefits of an EPA and mitigate some of the external shocks, notably those linked to the global financial and economic crisis.

#### 4.5. Current Status of EPA Implementation

After the signature of the EPA in the CARIFORUM region, the regional preparatory task force (RPTF) - a mechanism established to support the negotiating process by providing advice to the principal negotiators<sup>24</sup> - was mandated to identify the main challenges and support needs of CARIFORUM countries with regards to development assistance and to translate these into operational needs for development.

The "EPA Implementation Work Programme" that has resulted from the RPTF, describes the cooperation priorities in 20 areas covered by the Agreement. The RPTF has also overseen the preparation of a set of studies analysing CARIFORUM countries' support needs in these areas, and a description of potential sector programmes. For instance, the study on competitiveness and innovation identifies four priority sectors with growth potential – three in the services sector and one in the goods sector, reflecting the importance of services to the economy in the CARIFORUM region, and the commitments that were taken in the EPA, namely in:

1. Tourism and other professional services,
2. Business services,
3. Agro-industry and
4. The regional music industry.

Furthermore, necessary development assistance identified includes:

1. Gathering information on available opportunities in EU markets;
2. Establishing and strengthening national and regional coalitions of service industries;
3. Developing regional regulatory frameworks for the provision of professional services; and
4. Establishing links with business support organisations focussing on services sectors in Europe. Private sector organisations at regional and national level are expected to be the main beneficiaries of this assistance.

##### 4.5.1. Status of EPA implementation at the regional level<sup>25</sup>

At the regional level, CARICOM (CARIFORUM minus the Dominican Republic) heads of government agreed to set up an EPA implementation unit within the CARICOM Secretariat to coordinate the process and assist member states to implement their commitments. Political tensions have however slowed down progress, notably because of different perceptions by Caribbean countries, institutional

<sup>24</sup> The RPTF consists of representatives from the regional secretariats, the National and Regional Authorizing Officers in the Caribbean, non-state actors, universities and the EU.

<sup>25</sup> Edele, van Hove, and Czaika (2009).



weaknesses and rivalry, and because the Dominican Republic, which is not a member of CARICOM, was not willing to have the CARICOM Secretariat represent its trade interests. The CARICOM Secretariat has drafted an EPA implementation Roadmap based on the RTPF work programme.<sup>26</sup> CARICOM will be mainly responsible for coordinating, while other specialised agencies will be responsible for implementing.

While implementation has started slowly, the effects of an EPA will in general take time to materialise. Some potential for private sector rely on provisions to be applied in the future, such as the commitment to establish a system of protection for geographical indications by 2014, which will promote the development of certain products for export. Other areas critical to competitiveness are still under negotiation such as the RoO cumulation provision and the product specific rule for fisheries. Other preferences are threatened with imminent erosion as the EU is also negotiating bilateral free trade agreements with CARIFORUM competitors and possibly of concluding a multilateral agreement in the WTO Doha round.

#### **4.5.2. Status of Implementation at the national level**

At the national level, implementation units have already been established in a number of Caribbean countries, namely Jamaica, Grenada, Trinidad and Tobago, Barbados and the Dominican Republic. Staffing and funding difficulties have frustrated the process across many countries. Experts in the region identify the lack of engagement with the private sector in the whole EPA process as one of the reasons why implementation units remain public sector driven. Here there is a danger that private sector actors' priorities, in particular those of MSMEs, are poorly articulated and therefore not adequately incorporated into the government-led development process. Furthermore, without business development specialists in the implementation units to provide business development services such as 'match-making' with EU firms and European market analysis, the impact of development assistance for the private sector will remain low.

Some examples of EPA provisions being implemented have been identified, including private sector-led initiatives. The Dominican Republic for instance, claims to be boosting the textile and clothing sector in response to the more favourable RoO of the EPA, and rapidly filled its new sugar quota as a result of the EPA. Accountants, architects and engineers actively participated in the EPA services negotiations, submitted requests and successfully incorporated a best endeavour article to "encourage the relevant professional bodies in their respective territories to start negotiations to jointly develop and provide recommendations on mutual recognition".<sup>27</sup>

The Protocol on Cultural Cooperation provides for greater cooperation and has special provisions concerning audiovisual services. Co-produced audiovisual services involving European and Caribbean creative teams will qualify as European works and meet the cultural content rules in all EU states. When co-production treaties are completed between individual EU states and Caribbean states, it will be possible for Caribbean audiovisual producers to access funding for creative projects.<sup>28</sup> Although the sector is small and fragmented, without strong representation, a co-production treaty negotiation is underway.

Translation of commitments into action is conditional upon a comprehensive understanding by all stakeholders of what commitments have been taken and what opportunities exist in the EPA. Despite various awareness campaigns, many business people find it difficult to interpret the highly technical and

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<sup>26</sup> Some EPA studies commissioned by the RTPF are yet to be completed and incorporated into the Road Map.

<sup>27</sup> CARIFORUM-EU EPA article 85. These recommendations will be reviewed by the CARIFORUM-EC trade and development committee in order to start negotiating, through the competent authorities, an agreement on mutual recognition of requirements, qualifications, licences and other regulations.

<sup>28</sup> CRNM (2007)

legal jargon of the Agreement: this is particularly the case for the services schedule of commitments. Clear guidelines are needed, such as those recently published by the International Trade Centre (ITC)<sup>29</sup>, or the Office of Trade Negotiations (OTN) Private Sector Trade Note and Briefs as part of the OTN Private Sector Outreach.<sup>30</sup>

## 5. The EAC Context

### 5.1. The Negotiating Process

Initially, four of the five EAC countries, namely Burundi, Kenya, Rwanda and Uganda began EPA negotiations in the Eastern and Southern African configuration, which is drawn from COMESA. Tanzania, on its side, started negotiations under the SADC configuration. However, as negotiations progressed, in particular in market access for trade in goods, and as the December 2007 deadline for the expiry of the WTO was approaching, it became evident that the EAC countries could not conclude the EPA under different configurations. Indeed, as members of a Customs Union, the external tariff that would apply to the EU in their market access offers had to be aligned with the rates of the EAC common external tariff. It was therefore decided at the EAC Summit Meeting August 2007 that they would conclude the EPA as a single block.

On 27 November 2007, the East African Community<sup>31</sup> initialled the Framework Economic Partnership Agreement (FEPA) with the EU, which covers trade in goods and a chapter on fisheries. Until the FEPA is signed by EAC, it will continue to be applied unilaterally by the EU, under the European Community Regulation 1528 of 20<sup>th</sup> December 2007. A road map was agreed to conclude negotiations of a full EPA by May 2009 on all remaining outstanding issues, contained in the rendez-vous clause, in Article 37 of the FEPA. However the 2009 deadline was missed and was postponed for the end of 2010. However, so far no specific dates have been agreed to sign a full EPA. In the context of the full EPA, both parties agreed to continue negotiations on:

1. Customs and trade facilitation;
2. Outstanding trade and market access issues, including rules of origin, technical barriers to trade (TBT) and SPS measures;
3. Trade in services
4. Trade related issues, including on competition policy, investment and private sector development; trade, environment and sustainable development; intellectual property rights and transparency in government procurement;
5. Agriculture;
6. Dispute settlement mechanism and institutional arrangements; and
7. Economic and development cooperation.

<sup>29</sup> EC-CARIFORUM Economic Partnership Agreement: Services and Investment Commitments, Vol 1&2, 2009

<sup>30</sup> [http://www.cnm.org/index.php?option=com\\_docman&Itemid=109](http://www.cnm.org/index.php?option=com_docman&Itemid=109)

<sup>31</sup> Burundi, Kenya, Rwanda, Tanzania and Uganda

**Box 1: EAC-EU EPA negotiations: Current state of play**

Negotiations on customs and trade facilitation, SPS and TBT have been completed with the exception of the articles relating to technical assistance and institutional provisions. Most outstanding 'contentious' issues of the FEPA text have been agreed in principle except for the clauses relating to Most Favoured Nation and export taxes. Chapters on economic and development cooperation; trade in services; rules on competition, intellectual property rights, government procurement; trade, environment and sustainable development; and agriculture remain outstanding. The region is concerned to establish regional rules and maintain regional preference prior to agreeing rules and making commitments with the EU. Discussions are underway at the regional level based on Chapter 15 of the EAC Treaty on cooperation in infrastructure and services and Chapter 17 on achieving free movement of persons, labour, services, right of establishment and residence, but are far from being concluded.

The EAC has agreed that economic and development cooperation would be an entire chapter in the full EPA. The purpose will be to address supply side constraints, impediments to business and capacity building to enable the business community to exploit new trade opportunities that would be provided by the full EPA.

As in the CARIFORUM Region, the EAC has established its own negotiating process for EPA negotiations, although structured differently (see *Annex 5*). Member countries normally carry out national consultations with their stakeholders, which include government agencies and representatives of the private sector. The national positions are then fed into the regional negotiating process. Regional technical working groups, composed of national experts are held to propose common regional positions. These are then sent to the senior officials' level for further consideration before being submitted to the Council of Ministers for approval. Council usually reports to the Summit twice a year.

Negotiations with the EU have followed the same structure as the regional one. After approval by senior officials at the regional levels, negotiations have then been conducted with European Commission technical negotiators. There was a forum for joint EAC-EC senior officials, to consider positions taken by the technical level. Finally, they were submitted to the joint EAC-EU Council for approval.

Unlike in the CARIFORUM case, where the "traditional exporters" have played an important role during the negotiations, the role of the private sector in the negotiations has been less prominent. Although countries have conducted national consultations prior to regional meetings, the extent to which the private sector has been effectively consulted and involved in advocating their positions, defending their interests and being offensive on what they would like to obtain from the negotiations remained rather unclear, and varied from country to country and from sector to sector.

## 5.2. Commitments to be implemented under the FEPA

Similarly to the CARIFORUM region, the EAC and the EU have taken reciprocal, though asymmetric commitments in trade in goods, although the FEPA was a trade-in goods only agreement. Under the FEPA, the EU has provided duty free and quota free market access in all goods, with the exception of rice and sugar, which have a transitional period. Export of rice attracted tariff up to 2010, at which point it became duty free, while sugar attracted tariff up to 1<sup>st</sup> October 2009. Between 2008 and 2009, the EU has granted 15,000 tonnes of white sugar to the EAC, in addition to their sugar protocol quota.

While four out of the five EAC countries are LDCs and therefore could have benefited from the Everything but Arms (EBA) Initiative that confers unilateral DFQF access to the EU market without in return making any commitments to the EU, the choice of entering in an EPA with the EU was motivated by the predictable nature of the EPA, compared to the EBA which was unilateral, conditional and



periodically assessed. Furthermore, in the case of Uganda, 99% of exports to the EU were done under Cotonou rules of origin, that were more flexible compared to the EBA RoO due to the fact that under EBA, cumulation is not possible with non-beneficiaries and therefore prevented Ugandan producers to cumulate with Kenya. Furthermore, had Kenya, the major exporter of the region, not initialled the EPA, it would have been relegated to the GSP status, losing some of its trade preferences vis-à-vis the EU in key sectors (such as horticulture, fish and textile) and subject to stringent GSP rules of origin.

### **5.2.1. What has been liberalised?**

The EAC countries have committed to liberalise 82 per cent of imports from the EU over a transitional period of 25 years. The commitments have been made from 2010 onwards, to allow new EAC members, Rwanda and Burundi, time to integrate into the EAC customs union. The liberalisation schedule is as follows:

1. Subject to a 2-year moratorium, i.e as from 2010, EAC will phase down tariffs on all raw materials and capital goods. This represents approximately 64% of imports from the EU
2. Between 2010 – 2023, EAC will gradually phase down the 10% rated tariffs on intermediate goods to zero. These account for another 16% of the total trade between the EAC and the EU. By 2023, EAC would have liberalised a total of 80% of its trade with the EU.
3. From 2024 – 2033, the EAC countries will gradually phase down the 25% rated tariffs on final products to zero. These constitute 2% of the total trade between the EU and the EAC. By 2033, the EAC would have opened 82% of its market with the EU.
4. Sensitive products, representing 18% of trade with the EU, mainly consisting of agricultural and industrial goods, will be excluded from liberalisation.

On its part, the EU has provided the same DFQF market access to EAC as given to the CARIFORUM, with similar transitional periods for rice and sugar.

### **5.2.2. What's in it for the Private Sector?**

In terms of market access potential, some important tariff improvements have been obtained under the FEPA compared to the Cotonou preferences, in particular for agricultural products, which are the mainstay of EAC economies. While under Cotonou most industrial products already benefited from duty free access (with the exception of chemicals, starches, enzymes, textile and clothing), agricultural products and foodstuffs benefited from tariff reductions, that gave ACP countries a competitive edge over other non-preferential trading partners. However, in many cases, these products were not totally exempt of duties and where there were duty remissions, they were often subject to the limits of a quota. Examples of particular interest to the EAC countries include live animals, meat of swine, sheep and goats, poultry, dairy produce, edible vegetables, fruits and nuts, cereals and wheat flour.

Being highly agricultural, the new DFQF commitment on the part of the EU is of particular relevance for EAC countries. Coupled with the possibility to cumulate, as was the case previously under the Cotonou RoO, the new provisions represent an opportunity for these countries to move up the value chain and to diversify the production base, by moving into processing industries, and at the same time reducing dependence on exports of raw materials or unprocessed goods.

Rice was not a product of importance for the EAC region. As in the case of the CARIFORUM, the Sugar Protocol remained applicable until 30 September 2009. As from that date, sugar became duty-free and quota-free with a transitional safeguard mechanism that would be applicable until 30 September 2015. EAC obtained an additional quota of 15,000 tonnes of white sugar equivalent, granted for marketing year 2008-09.

## Rules of Origin

### *Fisheries products:*

EU RoO of fisheries products generally confer origin on all fish caught in inland waters (lakes and rivers), as well as fish caught in a country's territorial waters. RoO for fish are contained in the product specific rules, as well as the list of conditions defining when fish can be considered "wholly produced". The Cotonou Agreement provided an exception to these rules, by providing ACP countries with a special derogation to export non-originating tuna and tuna loins to the EU. This derogation was in the form of an annual quota of 8,000 tonnes for canned tuna and 2,000 tons for tuna loins and was managed by the ACP Secretariat. This derogation enabled ACP States to use tuna sourced from third countries or in any other way without having to comply with all the qualifying conditions set out within the Cotonou RoO (such as ownership or flag of vessels, leasing or chartering restrictions, nationality of crew, location of catch etc.), without the final product losing eligibility under the Cotonou preferences.

Under the FEPA, the EAC group was granted a derogation for 2,000 tonnes of tuna loins, which was a significant improvement over the 2,000 tonnes initially available under the Cotonou Agreement for all ACP countries. Since the Agreement is yet to be signed and implemented, Kenya applied for a temporary derogation and in November 2008 received a special derogation for tuna loins of 2,000 tons. As the only exporter of commercial quantities of tuna to the EU within EAC, Kenya's temporary derogation equals the all-EAC derogation granted under the FEPA.

### *Textile and Clothing:*

EU FEPA rules of origin for textile products have also significantly improved compared to the Cotonou rules, therefore reducing the amount of local processing that must be undertaken to confer origin. While Cotonou RoO required a two-stage transformation<sup>32</sup>, FEPA RoO now require only one-stage of local transformation. This means that as a general rule, fabric manufacturers may source their yarn requirements from anywhere or clothing manufacturers may in turn source their fabrics from anywhere in the world.

## 5.3. Private sector participation in trade

### 5.3.1. The Private Sector in EAC

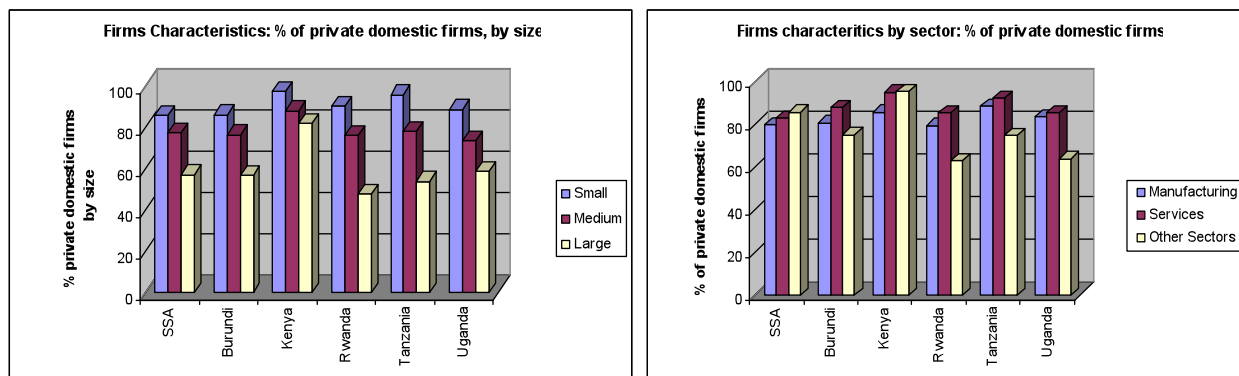
The structure of the "formal" private sector in the EAC region is diverse across the countries: it consists of a significant number of MSMEs and a relatively smaller number of large<sup>33</sup> scale enterprises. Figure 4 shows the characteristics of private sector firms in all five EAC countries. While Kenya has the highest number of privately-owned large companies, MSMEs generally constitute the bulk of the domestic owned private sector companies. These are also highly engaged in all productive sectors on the economy and therefore are significant in terms of the number of jobs they create. In 2006<sup>34</sup>, it was estimated that MSMEs accounted for 87 per cent of all enterprises in the region and on average contributed more than 70 per cent of non-agricultural employment in the region.

32 For textile fabrics this typically entails that the conversion of fibre to yarn must take place locally, as well as the conversion of yarn into fabric. For clothing, the conversion of yarn to fabric, and of fabric to clothing.

33 companies employing more than 100 persons

34 EAC Private Sector Development Strategy, June 2006.

**Figure 4: Structure of East African private sector**



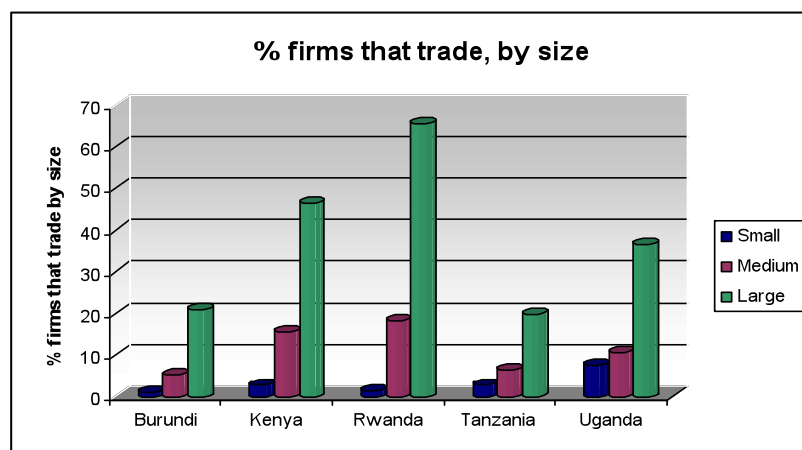
Note: Data were available for 2006 for all countries except Kenya, where the data were available only for 2007

Source: World Bank, Enterprise Survey, 2006.

Most EAC countries are characterised by a relatively undiversified economic structure, largely dominated by agriculture or services sector, also accounting for most of the MSMEs and informal sector and generally characterised by low per capita income and low productivity rates. This partly reflects the divergent political economic path followed by EAC countries following their independence, with political choices often not compatible with the development of a vibrant private sector. Indeed, while Kenya has followed an open economy model, the remaining countries have followed import substituting, socialist oriented economic models, leaving relatively uncertain scope and little prospects for private initiatives.

It is however interesting to note that although the economies are characterised by the large presence of MSMEs, those who have been trading with the outside world have been mainly the large ones. This is depicted in Figure 5, which shows that most small firms, and to a large extent, medium ones, are mainly geared towards the local market, whereas many large companies have exploited trade opportunities, namely with the EU, under the Cotonou Agreement. In Rwanda, for instance, 65.4% of large firms are engaged in trade, either directly or indirectly.

**Figure 5: East African firm size**



Source: World Bank, Enterprise Survey, 2006 and 2007

During the last decade, privatisation and restructuring of the economies of the region have resulted in a reduced role of the public sector and an increasing role of the private sector. This has led, mainly in LDCs, in the decline of the importance of large-scale public sector production, in particular in agriculture, in favour of a large number of small, private owners. Similar patterns are observed in the industrial and commercial sector.

The informal sector is an important part of enterprises and operators in the EAC region. They are engaged in a number of activities, ranging from wholesale and retail activities, transportation, manufacturing and agriculture. Their contribution to employment is significant. Very few data are however available to enable a proper assessment of this sector on the overall economic activities of the EAC countries. Experts in the region admit that this group has so far not been involved in the policy formulation process in the EAC.

Governments are at different stages of enacting relevant legislation for the protection and development of the informal sector in EAC. For instance, the government of Kenya has formally recognised the importance of the informal sector in its 'Vision 2030', therefore improving the State's relations with the sector. It recognises that *'the informal sector must be supported in ways that will raise productivity and distribution and increase jobs, owner's incomes and public revenues.'* Steps are being taken to formalise this fragmented group<sup>35</sup>. This gave the small associations a more powerful voice and led to results including the creation of a large hawkers market in Nairobi, allocation of titles land to the National Informal Sector Coalition (NISCO) members, and allocation of 2 billion shillings for a revolving loan fund administered jointly by NISCO, microfinance institutions and the government.<sup>36</sup>

### 5.3.2. Participation in the EPA process

EPA negotiations have largely been conducted at the level of government officials: the private sector was called to participate in national consultations and to some extent, in some regional technical meetings. Their level of involvement remained however limited, due to financial constraints to self-finance their participation, and technical constraints, to send specific experts on each and every aspect of the negotiations.

Out of the five EAC states, the Kenyan private sector had the highest stakes in the negotiations. As a non-LDC, Kenya could not afford to face the higher GSP tariffs when exporting to the EU had it not initialled the FEPA. The main exports, namely horticulture, fish and textile were at risk of losing duty free access to the EU market with a real threat of 'trade disruption', which could have resulted in the loss of some 1.5 million jobs. Similar to the producers in "traditional" export sectors in the Caribbean, the Kenyan private sector that was active in the negotiations adopted a predominantly defensive position to safeguard market access.

Agriculture is an important driver of the Kenyan economy: in 2007, it contributed to 26.1% of GDP. Horticulture (fresh farm products broadly classified as fruits, vegetables and cut flowers), the main produce and the main foreign exchange earner, contributed to 13 % of agricultural GDP. In 2007 Kenya exported over 403,000 tons of horticultural produce and over 95% was destined for the EU market. It is estimated that the sub-sector directly and indirectly employs over four million people, the majority of whom were women.

In the last 10 years, the EU market has been characterised with rapid evolution of legislation and market standards, related to issues such as traceability, Maximum Residue Levels, and pests. This has meant adjustment of national systems both public and private to be able to ensure competitiveness of Kenya's horticultural produce. The sector has responded by capacity building of human resources and equipment and has invested heavily in accreditation of business support facilities and the government has carried out domestication of international standards, codes of practices and regulations.

Sensitisation, information sharing and dissemination, developing common business strategies and strong public-private dialogue are recognised to have played a key role in maintaining Kenya's competitive

<sup>35</sup> For example, in 2005 local informal sector organisations in Kenya formed an umbrella body the National Informal Sector Coalition (NISCO)

<sup>36</sup> See UNIDO and GTZ (2008).

position in the horticulture sector. This relatively new sector in Kenya has been well organised for a number of years. The government has fulfilled the role of facilitator and has recognised the need to participate actively where necessary on issues of market standards. Because the sector has continually been adapting to new market conditions, offensive and defensive positions were well known and a sector strategy had already been developed. Similar to the CARIFORUM region during the EPA negotiations, the structure was already in place for Fresh Produce Exporters Association of Kenya (FPEAK) to consult its members to formulate a sector position and for FPEAK to relay the position to government in productive consultations. The chief executive of FPEAK has described the government of Kenya's support during the EPA negotiations as "vibrant".

Beyond maintaining market access, there was another overriding concern among exporters: Kenya currently enjoys a strong market position in EAC, amounting to approximately 32% of the market. Fear that cheaper EU exports would displace Kenyan goods as the region opens its market to the EU meant that manufacturers had notably defensive positions and played an active role in compiling the list of sensitive products to 'back-load' in the tariff liberalisation schedule and exclude from liberalisation entirely. Stakeholders benefited from over 35 sectoral analytical studies to inform the negotiation process. This was facilitated by the Kenya-European Union Post Lomé Trade Negotiations (KEPLOTRADE) committee<sup>37</sup>, which comprises government ministries, public institutions, private sector and civil society groups and whose main purpose is to have 'all stakeholders participate actively in preparation for the negotiations as required'. KEPLOTRADE carried out sectoral assessments, generated information and statistics, advised on legislation to safeguard trade with the EU and reviewed trade policies to prepare for EPA implementation.

Although the Rwanda Private Sector Federation (PSF) was represented in the national trade policy forum and participated in the national negotiating team, private sector stakeholders claim that the government and PSF have not undertaken many EPA sensitisation campaigns. As a result, few traders, with the exception of those already exporting to the EU market, were aware of the opportunities and implementation challenges of the FEPA. Unlike in Kenya, cross-border traders targeting the regional market showed less interest. Considering that 19% of Rwanda's goods were exported to Kenya alone, this lack of interest was likely to be due to lack of awareness of the impact of liberalising trade with the EU on the regional market dynamics.

Private sector participation has not been as effective in other EAC countries. Although Uganda received similar assistance under the Uganda Programme for Trade Opportunities and Policy through the trade department of the Ministry of Tourism, Trade and Industry, reports suggest that the Uganda Private Sector Foundation was not satisfied with the level of consultation with government. Likewise, private sector organisations in Tanzania complained that although they have called to participate in consultations during the negotiation process, they have not been able to participate effectively. They were often called at short notice, which did not leave them enough time to formulate a sector position and make recommendations and found documentation too technical. Public officials in the focal Ministries however saw the low participation of the private sector as a weakness in the capacity of the intermediary organisations to disseminate information to their members. This demonstrates that although platforms for public-private dialogue exist, if good state-business relations do not exist, the dialogue can be ineffective.

Experts in the region admit that most exporters in EAC are more interested in the prospect of the regional market, which is considered as a "quick win". Many of the production lines are built specifically for the regional market and, for those who do not already export to the EU, the EU market remains an intimidating and unrealistic expectation. Regional integration is another key objective of the EPA, and if

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<sup>37</sup> This is an EU funded national EPA negotiation structure established in 2001 by the Ministry of Trade and Industry in Kenya to facilitate Kenya's negotiation of EPA. [www.keplotrade.org](http://www.keplotrade.org)

the EPA stimulates the establishment of the regional common market that producers are anticipating, then part of the EPA would have had a positive impact.

Nevertheless, operating on 'quick wins' is not a sustainable business strategy, and private sector operators need to formalise trade and consolidate market positions in advance of further trade liberalisation. Sophisticated business strategies still need to be developed as EAC trade policy evolves, to implement the foreseen EAC-COMESA-SADC free trade area and negotiate trade agreements with third countries. This may be the result of a low level of entrepreneurship. If the criticism is justified, this is a more deeply rooted socio-economic problem that would take longer to overcome.

Independent observers found that private sector participation in the EPA negotiations in Kenya and Uganda has been notably higher than in the other EAC countries. The 'Kenya model' illustrates how the combination of a platform for public-private dialogue coupled with good state-business relations, entrepreneurial spirit, and effective organisation of sectors is necessary for the success of the internal EAC as well as ongoing EPA negotiations.

Five distinct challenges has been identified as bottlenecks in the participation of MSMEs in the ongoing negotiations and future implementation of the EPA:

1. Highly fragmented informal operators;
2. The lack of human and financial resources of intermediary organisations to distribute information targeted specifically at MSMEs and to formulate sector positions;
3. Little or no intermediary organisational capacity to advocate for private sector positions once known;
4. Lack of understanding of the public-private dialogue partner needs; and
5. Producers' lack of interest in exporting to the EU.

In some cases, the EC has contributed to the increased participation of MSMEs in the negotiation phase of the EPAs by providing support to the technical preparations and organisational capacity of sectors.

#### 5.4. Moving Beyond Traditional Exports

The value of total trade flows between the EAC and the EU was estimated at about €4.3 billion (or 0.12% of EU imports) in 2008. Exports to the EU were however dominated by a few products such as plants, flowers, coffee, vegetables, fish and tobacco.

Traditionally, EAC countries have been exporting agricultural products, with a high concentration in few products requiring little value added transformation. The FEPA, with its improved RoO and DQFQ access to the EU market, provide enhanced opportunities for countries to diversify their exports base, both within agriculture, by moving towards value addition, and outside agriculture, by exploiting new avenues in the manufacturing sector.

#### **Box 2: EAC key traditional exports to the EU**

In 2007, Burundi exports to the EU amounted to €39 million (i.e 20% of its total exports), 87% of which were coffee and 7% instruments and appliances used in medical and surgical and 3% centrifuges. Kenya's exports to the EU totalled € 1,058 million, representing 28% of its total exports and were composed mainly of plants and flowers (33%), vegetables, (17%), tea (12%), coffee (8%) and prepared vegetables and fruits (7%). Rwanda's exports to the EU accounted for € 35 million, equivalent to 24% of its total exports of which coffee represented 68%, ores 19% and tea 5%. Tanzania's exports to the EU accounted for a total of €381 million, mainly in fish, prepared and fresh (33%), tobacco (17%), coffee (15%), sugars (6%) and plants and flowers (6%), representing a share of 24% of its total exports. Finally, the EU represented 47% of total exports of Uganda, for a total value of €336 million, mainly in coffee (39%), fish (29%), plants and flowers (10%) and tobacco (5%).

Source: Eurostats



To move beyond traditional exports, EAC economies need to set the business environment right, to encourage the private sector to move up the value chain and to support them in improving their productivity and their competitiveness. Profound economic reforms are necessary to unlock increased and effective private sector participation in international trade. These include the dissemination of information across the private sector about new opportunities available under the FEPA, reducing the cost of doing business, building the capacity of the private sector, in particular of those MSMEs who have been traditionally producing for the domestic market and setting up a solid state-business relationship, through the participation of the private sector into trade negotiations and policy making decisions.

#### **5.4.1. Negotiating a full EPA**

Discussions towards the full EPA on all outstanding issues contained in the rendez-vous clause have been relatively slow, for technical and political reasons. Discussions were slowed down in 2009 due to the agreed political priority of the region to sequence trade negotiations within the EAC regional integration agenda before entering into further discussions with the EU, in particular on issues such as services and investment. Also, the region did not have the technical capacity to pursue both negotiations at the same time.

Proper sequencing is essential for the EAC region, if it wants to succeed in deepening regional integration. However, if it wants to improve its share of trade with the EU, EAC needs to look beyond traditional exports of goods and lay more emphasis on services. Besides consolidating and strengthening value addition on the goods market, developing a competitive services sector is a necessary complement, both to a strong domestic economy and to international trade. While it may not be ready to take ambitious commitments as the CARIFORUM on services, some key sectors, essential to unlock development, could be considered. These include telecommunications, financial services, professional services, energy services or transport services. Furthermore, it is most likely that commitments to be taken by the EU might be similar to those given to the CARIFORUM region, which may bring new opportunities to EAC investors and professionals to access the EU market to provide services in those areas where they have a competitive edge. Kenya, for instance, has a comfortable position in the region on telecommunication services and could benefit from such openings.

Furthermore, the EPA could be used as a leverage to raise the much needed investment in the productive sector, which is often a missing link to technological transfer and to help existing productive sectors to move up the value chain. The development of the private sector would need to be put forward as a major element of the negotiations. However, EAC would need to ensure that this goes well beyond the traditional technical assistance, to include real transfer of know-how, techniques and technology that would really help develop a vibrant and competitive private sector.

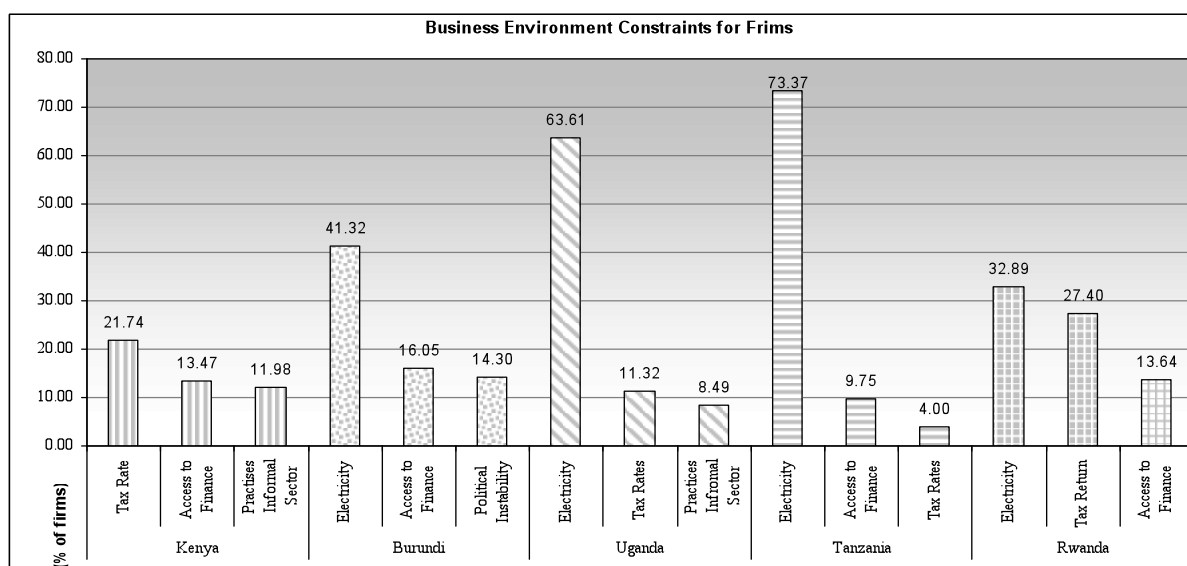
The rendez-vous clause also includes key supporting issues such as customs and trade facilitation, SPS and TBT. Market access, however generous, can be hampered by red tapes, bureaucracy, heavy procedures and controls at the border. These tend to increase the transaction costs of doing business and therefore neutralise the tariff elimination obtained. It is therefore important for the EAC region to have strong agreements on those elements, without which, they would not benefit from the EPA. Similarly, SPS measures are important for the protection of human beings, plants and animals and therefore need to be complied with. It is in the interest of EAC to ensure that they meet compliance requirements, and seek the necessary assistance where necessary, both technically and financially.

### 5.4.2. Improving Business Environment

Although the performance of EAC countries has improved over time, on the domestic scene, there are various challenges that continue to affect the investment climate for private sector activities. These include uncompetitive infrastructure and utilities, unfriendly legal & regulatory framework for business operations, cumbersome trade facilitation and administration procedures, low levels of labour and capital productivity, a constraining macro-economic business environment, relatively poor governance, and an unfriendly environment for MSME operators.

Figures 6 provide a snapshot of the main constraints to investment and private sector development identified in EAC countries by the World Bank Enterprise Survey. Data were available for 2006 for all countries, except Kenya, where the survey was carried out in 2007.

**Figure 6: Key Business Environment Constraints for Firms in EAC**



Source: World Bank, Enterprise Surveys

Measures to improve the investment climate include a comprehensive reform agenda on all production and operational environment, diversification of export markets for traditional products, continued dialogue with countries and regional blocks that provide the major export markets, and a concerted effort to improve the operating climate for MSMEs. These measures need to be urgently addressed so as to retain current investments and attract new investors, as a basis of facilitating the productive sectors to drive EAC economies' revival, a necessary condition for increased employment, reduction in poverty levels and increase in standards of living.

Furthermore, EAC countries rank poorly on the World Bank Ease of Doing Business 2010 index (See Table 4 in Annex 5). In general, business registration and licenses remain rather inefficient and add unnecessary costs to existing and potential investors in terms of time and money. This is particularly burdensome for MSMEs. Although in some sectors Rwanda performed relatively well in the EAC region, it ranks 67<sup>th</sup> on a total of 183 countries covered by the index. It can be observed that overall, EAC countries fall in the bottom 80%: this is an indication of a need for reforms to improve the business climate. The EPA, and in particular the development component, could be used as a useful tool to assist countries in their reform programmes, if adequately supported.



### **5.4.3. Building Trade and Investment Capacity**

Lack of trade and investment capacity is perceived as a challenge to the effective participation of the private sector in the decision making process. This is particularly true for MSMEs and informal business operators. As was the case for the CARIFORUM, the FEPA offers new potential opportunities, both to access the EU market and to diversify their internal production structures. This would require strengthening existing support agencies and the setting up of new ones that would help them tap new opportunities.

The role, importance and involvement of private sector organisations vary significantly across the EAC region. While Kenya and Rwanda have a few strong organisations with significant membership and who have strong advocacy and lobby skills, the role of such organisations in other EAC countries is not very prominent. There is therefore a need to strengthen and empower these organisations to play a significant linking role between business stakeholders and policy makers.

At the regional level, the East African Business Council (EABC) has taken a number of key initiatives to operationalise the participation of the private sector. These include, among others, the development of a private sector development strategy, the development of a common competition policy and legislation to promote free and fair competition and efforts to increase the participation of SMEs, by holding annual exhibitions.

### **5.4.4. Access to Finance**

Similar to the CARIFORUM region, one of the major obstacles to growth and investment, in particular for SMEs, is the lack of financing. Owing to lack of funds, many MSMEs do not have the means to expand above a certain level and thus are unable to grow at their full potential. In some instances, available loans are limited to a very short period, thus ruling out larger investments. One of the main difficulties in securing funds from the formal banking system is the high-perceived risk of loans to MSMEs. Among other things, this is due to their lack of collateral and vulnerability to market fluctuations. The high-perceived risk, together with high administrative costs involved in lending to SMEs, either makes loans unavailable or pushes up the interest rates, thus making available loans too costly. The problem is further exacerbated where business services such as accounting, auditing, financial management, legal counsel and credit information are lacking.

### **5.4.5. Addressing Supply Side Constraints**

Supply-side bottlenecks are various: they range from weak energy, telecommunications and transport infrastructure to low human resources skills and technological gaps. These are considered as the main stumbling block facing African countries' development in general. Overcoming such constraints is essential to promote a successful economic development of the region. The challenge is enormous: first, in terms of the time – there is an urgent need to catch up with the infrastructure divide. Secondly, in terms money, not only due to the gigantic sums necessary to fill all the gaps but also as no single donor could be able to mobilise enough funds to finance the projects.

EPA could be one of the many tools that could be used to address a few constraints, in particular through the development chapter that is yet to be developed, costed and prioritised. It would be unrealistic to believe that EPA could resolve all supply side problems: however, to some extent, in EPA related sectors, it could play a major role in helping countries address some of constraints and could be used as a tool to mobilise other donors and/or foreign investors to finance trade-related constraints. In the goods sector, for instance, technological transfer and assistance to meet quality standards could help industries improve their productivity.

#### 5.4.6. Addressing Institutional Weaknesses

At the national level, most institutions that support the private sector are either weak or under-funded. They often lack the internal capacity to analyse needs and constraints and their related impact on businesses and therefore fail to offer efficient business development services. Also, parallel to the existence of private sector institutions, there also exist public institutions, which, in many cases, handle almost similar activities, without complementary and coordinated efforts. Reinforcing private institutions and ensuring efficient and non-duplicated serviced by public authorities is key to foster the development of the private sector.

Furthermore, as has been mentioned earlier in the case of the CARIFORUM, good state-business relationship, based on efficient collective responsibility of the government and the private sector is key to ensure the participation of private stakeholders in the decision-making process. This should be inclusive of the informal sector, which plays a key role in EAC.

At the regional level, the EAC Secretariat needs to ensure that there is proper policy coherence between the regional priorities and the national interests and proper sequencing with trade relationships with third countries. The Secretariat would need to be strengthened at three levels, namely:

1. At the technical level to ensure proper analysis and monitoring of policy coherence;
2. At the financial level, to ensure funds are available for studies and to finance the participation of national private stakeholders in regional meetings; and
3. At the political level, to ensure it has the mandate to take the regional agenda forward in the different international negotiations.

## 6. Challenges Ahead: Institutional Implementation of the FEPA

Negotiations towards the full EPA are now at the centre of the future trade relationship between EAC and the EU. While progress has been quite slow and deadlines have been missed, the region remains committed to pursue discussions, although priorities, objectives and ambitions still differ between the two parties.

Two major challenges lie ahead of the region:

1. Signing and implementing the commitments of the FEPA and ensuring that benefits are effectively derived from what has been agreed, and
2. Continuing the negotiations towards a full, development-oriented EPA, that is based on common goals and agreed sequencing of priorities among national priorities, the regional economic agenda, and commitments vis-à-vis the EU.

Liberalisation commitments as well as potential benefits that can be derived from the EPA have been highlighted earlier. For the implementation to be effective, there is a need to establish effective and functioning EPA institutions at the EAC level and jointly with the EU that would be responsible for regular monitoring, evaluation and assessment of commitments, costs and benefits. This has not yet been identified.

The EAC Secretariat will most likely have the responsibility for coordinating EPA implementation at regional level. At present, the EAC Secretariat is charged of overseeing the implementation of the EAC Customs Union, but has limited capacity to ensure that partner states do actually honour their commitments, given the reluctance of member states to cede some national sovereignty. EAC

economies are highly integrated and interdependent, implying that whether the EU holds the customs union as a whole or an individual EAC country to account for EPA non-compliance or violation (depending on the provision in question), the whole community is likely to be affected. The EPA process may however push the region to tackle the politically sensitive question of passing on national sovereignty to a regional body. This may empower the EAC Secretariat with vested responsibilities and capacities that would lead to a successful and efficient coordinating role in EPA implementation.

On the part of the private sector, EABC, which has been granted observer status in the EAC since the beginning of its operations in 1997, may certainly play a key role as an 'independent collaborating institution' to deliver region-wide private sector support. It is certainly the best channel, given its broad membership across the region, its observer status in the EAC negotiations and its experience in supporting the private sector in voicing private sector interests to public-sector policy making institutions. The EABC has however, had greater success in advocating to governments than in sensitising its members about the EPA. It is worth noting the crucial role of the EABC in lobbying for all the five partner states to negotiate the EPA as one bloc at a time where four countries were negotiating in the ESA configuration and one country, Tanzania, with the SADC EPA and to persuade EAC countries to postpone services negotiations until the private sector could contribute meaningfully. The EABC, however, face technical and financial capacity constraints and challenges and is therefore currently not able to play its full "sensitisation" role towards its members with a view to formulating clear regional sectoral positions.

The Confederation of Informal Sector Organizations (CISO) is a body representing all the informal sector activities in three East African states and is a member of the EABC. Its objectives are mainly to act as a forum for exchange of ideas relevant to the development of the informal sector, the formation of informal sector organisations, and promoting programs geared at creating easy access to credit, financing, procurement, supplies and worksites for its membership. It applied for observer status at the EAC in 2004, but surprisingly its application has yet to be cleared. It would seem to be a natural partner for EPA implementation in order to increase the participation of MSMEs in trade. However, it seems that it does not have a strong capacity to deliver its services.

The challenge is not one of the 'weakest link'. Rather, it seems that no links in the chain exist that can securely channel regional assistance for EPA implementation into where it is needed most. The EABC private sector development strategy points out that "private sector organisations at all levels (local, national, regional) require an effective mechanism to ensure coordination of their activities and working relationships which ensure that various interests at all levels are reflected and accommodated in the stance and operations at the level of apex bodies at national and regional level." It also raises the concern that the capacities of business associations at national level as well as those at regional level are inadequate to perform the functions they are supposed to provide to their members. As the CARIFORUM analysis has shown, regional private sector development programmes can only be successful with a strong counterpart at national level.

To be effective, EPA implementation will require and perhaps inspire a considerable transformation in the regional public and private sector institutions and their relationship. The EPA development framework should be used to assist the process.

## 7. Implementing the EPA: Key Lessons for private sector participation

The collective responsibility of government and private sector stakeholders in improving the latter's performance is widely acknowledged: to increase the involvement of the private sector in the EPA, the ability of those traders that have so far not been sufficiently involved in international trade needs to be improved. Particular attention needs to be given to enhance the participation of MSMEs, who constitute the largest portion of businesses both in the Caribbean and EAC countries, if the trade patterns created under the previous Lome/Cotonou Agreements are to be modified and significantly improved.

The EPA represents a fundamental paradigm shift in the nature of the trade relationship between the EU and its ACP trading partners. This warrants considerable efforts and preparation to ensure that the outcome is development friendly and most importantly, creates real and tangible benefits, in terms of volume of trade, economic prospects, improvement in living standards of the people and significant poverty reduction.

Some key lessons can be drawn from the experience of the participation of the CARIFORUM private sector in the EPA negotiations and implementation:

### 1. *Ensuring a functional negotiating structure*

As was the case in the Caribbean with the prominent role played by the CRNM, the EAC Secretariat needs to ensure that it has the necessary political will, a strong and clear mandate and the legitimate power to negotiate on behalf of its member states. Obviously, the balance of negotiating power has so far strongly been in favour of the EU: experience therefore reveals that a strong functional regional institution, assisted by experienced regional and national technical negotiators, would certainly better reflect the needs, interests, concerns and positions of all stakeholders. This is an important step to ensure a beneficial outcome.

### 2. *Ensuring policy coherence*

For the EPA to be meaningful, it is important to ensure policy coherence at the national and the regional level: first at the domestic level, private sector and the national governments need to work closely together to thrash out common national positions that would reflect their respective concerns and interests. Then, at the regional level, during the phase of regional consultations, the negotiating structure needs to ensure that all national positions are coherently reflected in a clear regional position and that these are not incompatible with the overall regional economic integration agenda. The coherence between regional integration policies and EPA ambitions has to be clearly reflected and articulated in the outcome of the negotiations. Furthermore, a proper sequencing between the regional economic agenda and the commitments taken with the EU has to be properly established. These two processes must complement and reinforce each other for the outcome to be positive and beneficial to the region.

### 3. *Effective policy responses to challenges*

In parallel to taking commitments, at the implementation phase, CARIFORUM and EAC regions and countries need to develop a holistic policy response to challenges that would arise following the implementation of obligations, both at the national and the regional level. At the domestic level, this might sometimes entail politically unpopular short-term economic reforms and adjustments but which would be necessary for long-term growth and to create the right business environment in which the private sector

can operate efficiently and competitively. Simultaneously measures would have to be taken to improve private sector competitiveness, to empower MSMEs to participate in the decision-making process, to ensure access to credit and to address supply-side constraints. At the regional level, necessary institutional and regulatory frameworks would have to be established to accompany and support regional integration process in a way that EPA outcomes also contribute to deepen regional agenda.

#### **4. *Engaging private sector in the domestic reform process***

The participation of the private sector in the domestic reforms and the overall decision-making process regarding trade is therefore essential. Regular consultations and consensus building is likely to lead to productive outcomes in the negotiations.

In this regard, effective state-business relations can lead to an optimal allocation of the existing limited resources, including effective government involvement to support private sector activities and to remove non-trade barriers. If government and private sector actors can communicate effectively, implementing the EPA at national level is likely to progress beyond a simple legal check list to ensure governments are EPA-compliant but rather to look at how to best to use and activate EPA provisions for greater the benefit of the private sector.

#### **5. *Promoting efficient private sector intermediaries***

A well-organised sector that has knowledge of risks and opportunities in trade negotiations, strong advocacy capacity, and a platform for dialogue with government that fosters good state-business relations has proved to be more efficient in EPA negotiations. This has been the case for the “traditional” exporters to the EU market. Based on the experience of the latter, private sector intermediaries in all other sectors, in particular where MSMEs are engaged, need to be established and encouraged to promote the visibility of those sectors that, so far, were not involved in the negotiations. Such intermediaries would have the role of defending the interests of those who are small and capacity-constrained, of engaging in marketing campaigns on their behalf and therefore of fostering their competitiveness on the world markets.

#### **6. *Consulting and involving the private sector in donors programming***

Complying with commitments, creating export opportunities and adjusting to the new liberalised trading environment will come at a substantial cost. The EU is expected to provide financial assistance for EPA implementation and adjustment costs, notably through the EDF, EU member states direct support and other additional resources. Therefore EU programming, notably EDF, and EPA priorities must be aligned. The private sector is already involved in programming EDF resources. It might be expected that resources should be available, including directly to the private sector, to implement the “best endeavour” cooperation commitments on which taking advantage of the EPA relies.

#### **7. *Establishing implementing institutions at all levels as early as possible***

The next step after signature of an Agreement is its implementation, which is essential to reap any benefits obtained therein. Although the market access part of the EPA has been secured under EC Council Regulation 1528 of 2007, other parts of the Agreement can only be applied if it is implemented as per some specific requirements of the Agreement. The CARIFORUM and the EU have set up a Joint CARIFORUM-EC Council to supervise the overall operation and implementation of the Agreement. The Council has already adopted the rules of procedures. The Council is expected to be assisted by a technical body, the Trade and Development Committee to supervise the proper application of the Agreement and monitor and assess its likely impact as well as performance regarding development

cooperation. Furthermore, a Joint Parliamentarian Committee and a Joint Consultative Committee have been set up to exchange views and promote dialogue and cooperation among parliamentarians and civil society respectively. On its side, the EAC FEPA has established an EPA Council. Regarding customs matters, it would be supported by a Special Committee on Customs Cooperation. There is currently no forum to jointly discuss the implementation of the Agreement and to monitor development cooperation at technical level. To ensure that commitments taken by both parties are duly implemented there is a need to strengthen the institutional set up between EAC and the EU in the context of the full EPA.

To ensure the transposition of commitments at national and regional level, however, implementing institutions need to be urgently set up. Clear political leadership must be demonstrated, so as to limit political wrangling and institutional tensions in the implementation phase. The role of national implementation units will be key to ensure proper monitoring of the application of the Agreement and to encourage stakeholders to take advantage of opportunities available under the FEPA. Finally, as mentioned in this paper, there is scope for the EAC Secretariat, the Eastern African Business Council and the Confederation of Informal Sector Organisations to play a positive and proactive role in EPA implementation at the regional level.

#### **8. Considering EPA monitoring alongside implementation to ensure proper adjustments**

As mentioned, while EPAs have the potential to contribute to enhance trading and investment opportunities and to foster a more conducive business environment that promotes sustainable development, they will require effective implementation and adjustments to unleash their development-friendly potential. It is thus essential that EPA implementation be accompanied by a careful monitoring of the implementation activities and their impact, notably on private sector and development, including the adoption of appropriate adjustment and remedy measures where necessary.<sup>38</sup> In doing so, private sector, as a key stakeholder of the EPA, must be closely associated. Again, in the case of the CARIFORUM, the Joint Committees set up could play a meaningful role. The Trade and Development Committee could play a particularly important role, while regularly assessing the impacts of the Agreement. Such a mechanism also must also be set up in the EAC region. Adequate follow-up, through national implementation units, would be required to assess adjustment costs.

Monitoring is even more important when considering that the EPAs are being implemented in the midst of a global economic crisis, food and energy crises and natural disasters. Monitoring and implementation of the EPA must be seen as part of a holistic response to the world economy.

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<sup>38</sup> See Bilal *et al.* (2007) and Brüntrup *et al.* (2008).

## Annex 1

**Table 1: Status of Agreements, as of 15 March 2010**

Agreement	Status
CARIROFUM Full EPA	All 15 countries have initialled and signed
ESA Interim EPAs	Initialled by Comoros, Madagascar, Mauritius, Seychelles, Zambia and Zimbabwe. Signed by Madagascar, Mauritius, Seychelles and Zimbabwe. Comoros and Zambia have not yet signed the Agreement
SADC Interim EPA	Initialled by Botswana, Lesotho, Swaziland, Mozambique and Namibia. Signed by Botswana, Lesotho, Swaziland and Mozambique. Namibia has not yet signed the Agreement
Central Africa Interim EPA	Initialled and signed by Cameroon
Interim EPA in West Africa	Initialled by Cote d'Ivoire and Ghana. Signed by Cote d'Ivoire. Ghana has not yet signed the Agreement
Pacific Interim Agreement	Initialled and signed by Papua New Guinea and Fiji.
EAC Interim EPA	Initialled but not yet signed by Burundi, Kenya, Rwanda, Tanzania and Uganda

**Table 2: Facts about Caribbean Economy, 2007:**

Population:	25,769,000
GDP (current \$, million)	76,277
GDP per capita, \$	2,960
Imports from EU (Million Euros)	4,630
Exports to EU (Million euros)	4,066
Share of Imports in EU trade	0.28%
Main trading partners:	
	USA 53%
	EU 19%
	Others 28%

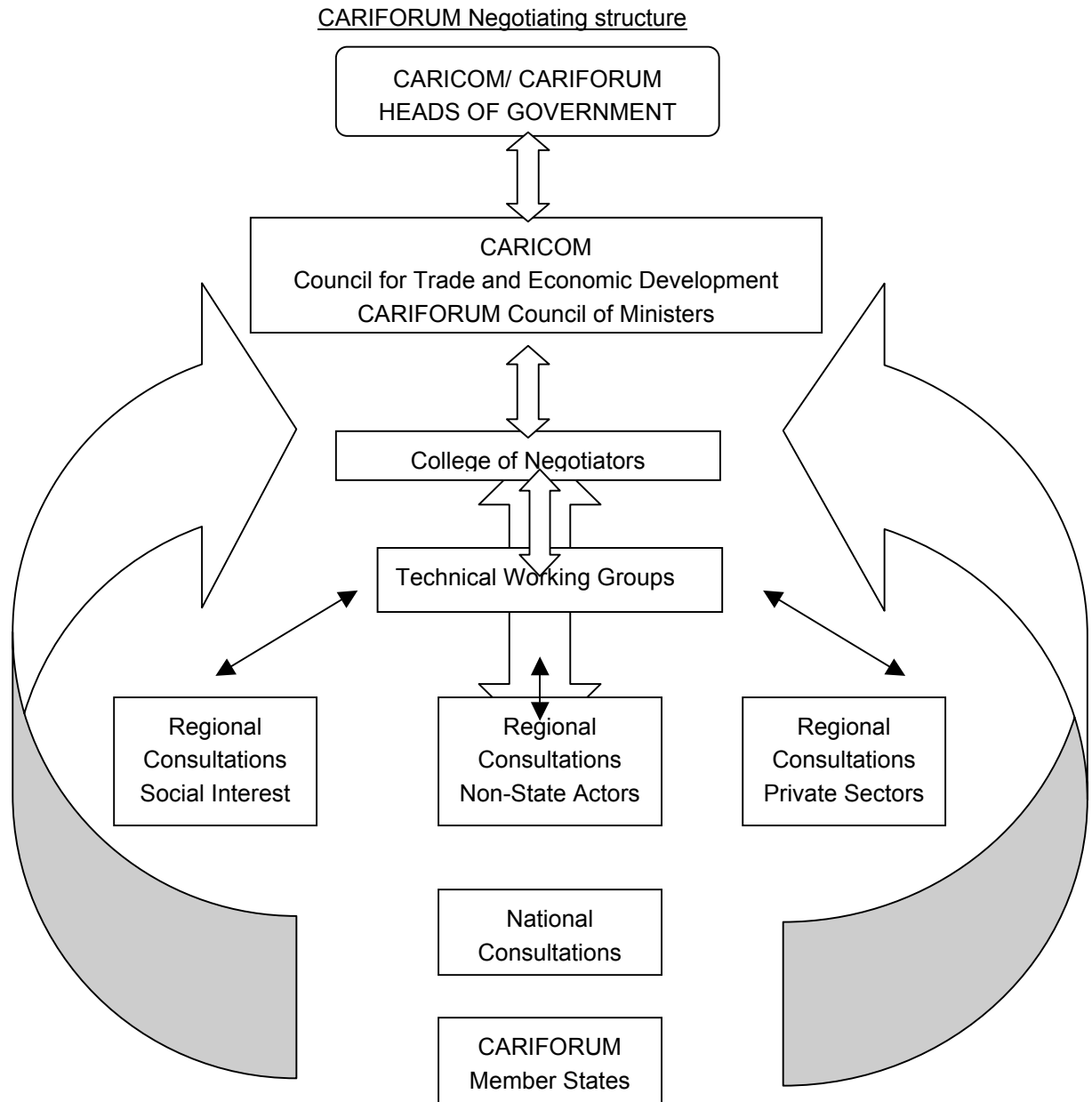
Source: Eurostats

**Table 3: Facts about EAC Economy, 2007:**

Population:	105,911,000		
GDP (current \$, million)	44,982		
Av. GDP per capita, \$	425		
Imports from EU (Million Euros)	1,775		
Exports to EU (Million euros)	2,494		
Share of Imports in EU trade	0.12%		
Main trading partners: EU	30%		
Uganda	11%		
USA	6%		
Tanzania	5%		
Others	48%		
<i>Source: Eurostats</i>			
Composition of EAC Economies	Share of Agriculture in GDP (%)	Share of manufacturing sector to GDP (\$)	Share of services to GDP (\$)
Burundi	34.8	20.0	45.1
Kenya	26.1	17.9	56.0
Rwanda	39.8	14.2	46.0
Tanzania	45.3	17.4	37.3
Uganda	24.0	25.9	50.0
<i>Source: World Bank</i>			



## Annex 2



**Source: EPA at a Glance: An Overview of CARIFORUM-EC EPA, Prepared by CRNM Information Unit, 2008**

Following national and regional consultations, the regional positions were presented to the college of negotiators, which comprised representatives from regional organisations (office of trade negotiators, formally known as Caribbean Regional Negotiating Machinery, CRNM), private individuals and representatives of national governments. The CRNM was in charge of assisting the region to develop, coordinate and execute the overall negotiating strategy (for various negotiations, not only the EPA), in collaboration with governments, private sector operators and non-state actors. Guidance from regional heads (the CARIFORUM Council of Trade and Economic Development, the CARIFORUM Council of Ministers and the CARIFORUM Heads of Governments) mandated the CRNM and the College of Negotiators to adopt negotiating positions that were reflective of the combined interests of stakeholders in the region. Finally the CARIFORUM Council of Ministers, which is composed of the CARICOM Council of Ministers of Trade and Economic Development (COTED) and the Minister of the Dominican Republic

reviewed and considered the College's recommendations and refined/ approved negotiating strategies. The Heads of Government provided the final approval and authorisation of the mandate. Through its private sector outreach program, the Caribbean Regional Negotiating Machinery (CRNM), which is now known as the Office of Trade Negotiators (OTN), also conducted a campaign to sensitise private sector stakeholders, mainly in the small and medium ones operating in non-traditional sectors. Much of the engagement took place through training sessions, presentations, specially prepared written briefings and by eliciting submissions, the effective use of weekly regional radio broadcasts of Caribbean Trade Beat and countless 'town hall meetings', business conferences and meetings of business association. This was complemented by the preparation of industry assessments of key regional sectors such as the Telecommunications, Agro-Food Distribution, and Cultural sectors<sup>39</sup>. However, these programmes did not necessarily increase the participation of the small and non-traditional operators in the EPA process.

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<sup>39</sup> See Bernal (2008).

## Annex 3

Table 4: Ease of Doing Business Index 2010, CARIFORUM countries (June 2008 – May 2009)

Economy	Doing Business*1	Starting a Business	Dealing with Construction Permits	Employing Workers	Registering Property	Getting Credit	Protecting Investors	Paying Taxes	Trading Across Borders	Enforcing Contracts	Closing a Business
Antigua and Barbuda	50	59	21	54	103	113	27	127	53	71	64
Bahamas, the	68	61	100	42	149	71	109	43	37	120	31
Belize	80	147	4	23	128	87	119	57	117	168	25
Dominica	83	38	25	80	113	71	27	68	86	167	183
Dominican Republic	86	107	92	97	112	71	57	70	36	86	146
Grenada	91	52	15	49	162	87	27	82	79	162	183
Guyana	101	97	39	87	72	150	73	113	76	75	129
Haiti	151	180	126	28	129	135	165	99	144	92	155
Jamaica	75	19	49	39	122	87	73	174	104	128	23
St. Kitts and Nevis	76	86	8	19	153	87	27	100	53	114	183
St. Lucia	36	36	12	20	76	87	27	40	103	165	47
St. Vincent and the Grenadines	70	45	3	57	137	87	27	62	52	102	183
Suriname	155	171	97	70	168	135	180	32	101	178	149
Trinidad and Tobago	81	65	82	45	170	30	20	56	49	169	183

Notes: \*1 - Out of 183 countries

1-18: top 10%

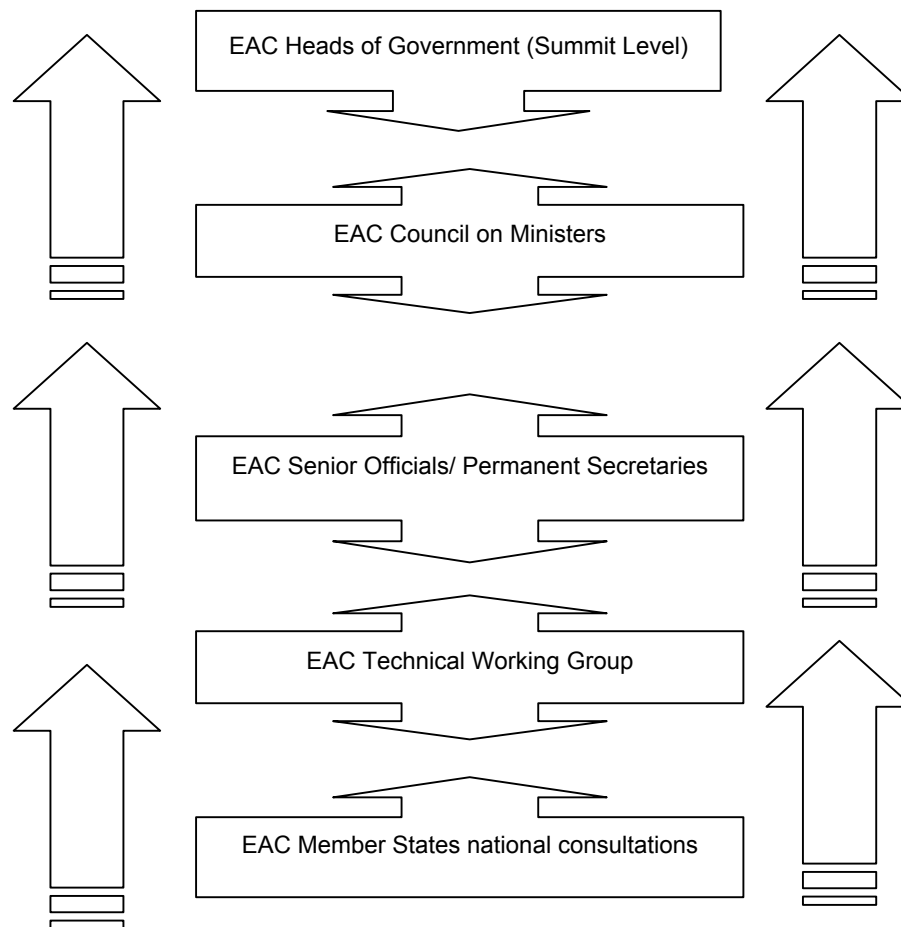
19-36: top 20%

37 - 183: bottom 80%

Source: World Bank (2009), [www.doingbusiness.org/EconomyRankings](http://www.doingbusiness.org/EconomyRankings)

## Annex 4

### EAC negotiating structure



## Annex 5

Table 5: Ease of Doing Business in EAC, 2010

Economy	Ease of doing business*1	Starting a Business	Dealing with Construction Permits	Employing Workers	Registering Property	Getting Credit	Protecting Investors	Paying Taxes	Trading Across Borders	Enforcing Contracts	Closing a Business
Burundi	176	130	172	88	118	167	154	116	175	172	183
Kenya	95	124	34	78	125	4	93	164	147	126	79
Rwanda	67	11	89	30	38	61	27	60	170	40	183
Tanzania	131	120	178	131	145	87	93	119	108	31	113
Uganda	112	129	84	7	149	113	132	66	145	116	53

Notes: \*1: Out of 183 countries

1 - 18: top 10%

18-36: top 20%

37 - 183: bottom 80%

Source: World Bank (2009), [www.doingbusiness.org/EconomyRankings](http://www.doingbusiness.org/EconomyRankings)

## Bibliography

Bernal, R., "CARIFORUM-EU Economic Partnership Agreement Negotiations: Why and How" *Journal of Eastern Caribbean Studies* Vol. 33, No. 2, June 2008, pp.1-21

Bilal, S. and M. Dalleau. 2010. *Africa-EU Economic Relations in Light of the Global Financial and Economic Crisis*, forthcoming in the *African Development Perspectives Yearbook 2010*, Berlin: Lit Verlag.

Bilal, S., P. Draper and D.W. te Velde. 2009. *Global Financial and Economic Crisis: Analysis of and Implications for ACP-EU Economic Partnership Agreements (EPAs)*. (ECDPM Discussion Paper, 92). Maastricht: ECDPM. [www.ecdpm.org/dp92](http://www.ecdpm.org/dp92)

Bilal, S., F. Jerosch, N. Keijzer, C. Loquai, and F. Rampa, 2007. *From Legal Commitments to Practice: Monitoring Economic Partnership Agreements*. (ECDPM Discussion Paper 79). Maastricht: ECDPM. [www.ecdpm.org/dp79](http://www.ecdpm.org/dp79)

Bilal, S. and C. Stevens (Eds.). 2009. *The Interim Economic Partnership Agreements between the EU and African States: Contents, challenges and prospects*. (ECDPM Policy Management Report, 17). Maastricht: ECDPM. [www.ecdpm.org/pmr17](http://www.ecdpm.org/pmr17)

Brüntrup, M., S. Bilal, F. Jerosch, N. Keijzer, C. Loquai, F. Rampa, and T. Reichert. 2008. *Monitoring economic partnership agreements: inputs to the negotiations and beyond* (Studies 37), with ECDPM. Bonn: German Development Institute/Deutsches Institut für Entwicklungspolitik.

CRNM. 2007. *Private Sector Trade Note "What's in the EPA for the private sector?"*. Bridgetown: CRNM  
Edele, A, K. van Hove and M. Czaika. 2009. *Report on the appraisal mission. Support to regional institutions in the implementation of the Economic Partnership Agreement (EOA) in the Caribbean*. Eschborn: GTZ.

Gomez, D. 2008. *Presentation: CARIFORUM-EU EPA TACARI EU Market Access Seminar Kingston Jamaica*. <http://www.psoj.org/>

International Trade Centre. 2008. *Tourism Services Liberalization: The role of Business Advocacy in The Caribbean – European Union EPA Negotiations*. Geneva: International Trade Centre.

Jessop, D. 2008. *Small Businesses and the EPA. The View from Europe*.

Leftwich, A., K. Sen and D.W. te Velde (Eds.). 2008. *The Economics and Politics of State-Business Relations in Africa*. University of Manchester: Manchester.

Lui, D. 2008. *The Aid for Trade Agenda and accompanying measures for EPAs Current state of affairs*. (Discussion Paper, 86). Maastricht: ECDPM.

Lui, D., and S. Bilal. 2009. *Contentious issues in the interim EPAs: Potential Flexibility in the negotiations*. ECDPM Discussion Paper 89. March 2009, Maastricht: European Centre for Development Policy Management. [www.ecdpm.org/dp89](http://www.ecdpm.org/dp89)

ODI, ECDPM and CAPRI. 2009. *The CARIFORUM-EU Economic Partnership Agreement: The Development Component - Study commissioned by the European Parliament*. (EXPO/B/DEVE/2008/60). Brussels: European Parliament.

Sauvé. P and N. Ward. 2009. *The EC-CARIFORUM Economic Partnership Agreement: Assessing the outcome on Services and Investment*. European Centre for International Political Economy: ECIPE.  
UNECA. 2005. *Unleashing the Private Sector in Africa - Summary Research Report*. Addis Abeba: UNECA.

UNIDO and GTZ (ed.). 2008. *Creating an enabling environment for private sector development in sub-Saharan Africa*. Vienna: United Nations Industrial development Organization.

US Department of Commerce. 2000. *Guide to the Caribbean Basin Initiative*. Washington: US Department of Commerce. [http://www.sice.oas.org/TPD/USA\\_CBI/Studies/USITCcbi2000\\_e.pdf](http://www.sice.oas.org/TPD/USA_CBI/Studies/USITCcbi2000_e.pdf)

World Bank. *Ease of Doing Business, 2009 and 2010 reports*. Washington, D.C: The World Bank

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European Centre for Development  
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**ecdpm**

#### HEAD OFFICE SIÈGE

Onze Lieve Vrouweplein 21  
6211 HE Maastricht  
The Netherlands *Pays Bas*  
Tel +31 (0)43 350 29 00  
Fax +31 (0)43 350 29 02

#### BRUSSELS OFFICE BUREAU DE BRUXELLES

Rue Archimède 5  
1000 Brussels *Bruxelles*  
Belgium *Belgique*  
Tel +32 (0)2 237 43 10  
Fax +32 (0)2 237 43 19

info@ecdpm.org  
www.ecdpm.org  
KvK 41077447



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