

A strong cocktail or a weak punch?

A case study of EDF assistance to the
ACP private sector

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Acronyms

ACP	Africa, Caribbean and Pacific Group of states
AIDCO	EuropeAid Co-operation Office of the European Commission
CAP	Common Agricultural Policy
CBI	Caribbean Basin Initiative
CARICOM	Caribbean Community
CARIFORUM	Caribbean Forum of ACP states
CIRT-DOM	Le Conseil Interprofessionnel du Rhum Traditionnel des Départements d'Outre Mer
CRNM	Caribbean Regional Negotiating Machinery
DG	Directorate-General of the European Commission
DIAGNOS	EU-ACP Private Sector Development Scheme
EBAS	EU-ACP Business Assistance Scheme
EC	European Commission
EIB	European Investment Bank
EPAs	Economic Partnership Agreements
EU	European Union
EDF	European Development Fund
FTAA	Free Trade Area of the Americas
GAC	General Affairs Council
GSP	Generalised System of Preferences
MEP	Member of the European Parliament
MFN	Most Favoured Nation
NGOs	Non-Governmental Organisations
PMU	Project Management Unit
PROINVEST	EU - ACP Partnership Programme for the Promotion of Investment and Technology Flows to the ACP Countries
WIRSPA	West Indies Rum and Spirits Producers Association Inc.
WTO	World Trade Organization

Abstract

This case study highlights some of the challenges faced by the European and African Caribbean and Pacific (ACP) stakeholders in negotiating and delivering the EUR 70 million rum programme under the 8th European Development Fund (EDF). Implementation of this programme began in August 2002 and will run until 2007.

The study provides the background for the political negotiation of the 8th EDF rum programme towards the end of the ACP-EU Post-Lomé trade negotiations in late 1999 and early 2000. It highlights some of the difficulties and challenges faced by the European Commission (EC), European Union Member States, the Forum of Caribbean ACP states (Cariforum) and the Caribbean rum industry in translating the EU's political commitment to assist the sector into a practical programme of transitional assistance.

The aim of this case study is not to focus on the objectives and content of the 8th EDF rum programme. Rather, it is to contribute to the ongoing debate surrounding EDF assistance to the ACP private sector, in particular in the context of the necessary adjustment due to the loss of preference in the ongoing EU-ACP trade negotiations for Economic Partnership Agreements (EPAs).

1 Introduction

New trade negotiations for WTO-compatible Economic Partnership Agreements (EPAs), between the Africa, Caribbean and Pacific (ACP) group of states and the European Union (EU), began in September 2002. For ACP industries and companies, the stakes in these negotiations are high. The negotiations represent the last opportunity to negotiate programmes of assistance to help adjust to the inevitable loss of preference that new WTO compatible trading arrangements with Europe will bring. Managing this transition to market liberalisation is one of the major strategic issues facing many ACP industries. Some ACP sectors have been 'early liberalisers' as external events have curtailed their preferential access to the EU market earlier than expected. The ACP banana sector is one example, the ACP rum industry another. Which industries are next? And are they ready to seize the moment?

This study shows how the ACP Caribbean rum sector sought to address the industry's sudden loss of preference in the post-Lomé negotiations (1998-2000). It also shows how - after a political deal was agreed by the EU and ACP in early 2000 to assist the sector - the stakeholders had to overcome a number of obstacles in order to begin implementation of a programme of transitional assistance that met the industry's needs.

It is hoped that stakeholders from both the EU and ACP might find this experience instructive as both parties seek to manage the ACP transition out of preference. The study is also intended to be an input into the ongoing debate concerning how best to utilise European Development Fund (EDF) resources to develop the ACP private sector.

2 The broader picture: the impact on ACP industries and ACP-EU trade relations

The experience of the ACP rum sector raises important questions that cut across many themes for the signatories to the ACP-EU Cotonou Partnership Agreement. These relate to (i) the impact of trade liberalisation on ACP industries and how this should be managed by the EU and ACP (ii); the question of whether the EU is able, and willing, to provide transitional support to other ACP industries as they move from non-reciprocal trade preferences to freer trade; and (iii) the extent to which the EU and ACP are really prepared to fully involve the ACP private sector in development cooperation through programmes under the Cotonou Agreement which runs from 2000 to 2020. The following points are important to place the programme in context, and demonstrate its wider significance for ACP-EU trade relations:

Rum is an early liberaliser among ACP industries

For the ACP rum sector, the end of preferences was determined by the EU-US Agreement on Distilled Spirits, sometimes called the 'Zero for Zero' Agreement, in March 1997. As a result of Zero for Zero, rum became one of the first ACP industries to embark on the transition out of preferences. What has happened to rum – the unexpected and rapid curtailment of preferential access to Europe – may be repeated with other ACP producers. Any one of the numerous parallel trade negotiating processes facing the ACP could have the same impact on ACP industries. These include the current ACP-EU trade negotiations for WTO-compatible EPAs by 2008, the reform of the Common Agricultural Policy (CAP), the Free Trade Area of the Americas (FTAA) negotiations, the reform of the Generalised System of Preferences (GSP) in 2004, and the ongoing WTO Round of multilateral trade negotiations. Are other ACP industries ready to negotiate the terms of their own economic transitions out of preferences?

Europe has accepted the principle of transitional support for ACP industries

During the post Lomé negotiations, the ACP, Caribbean governments, regional negotiators, trade ministers and the Caribbean rum industry sought to have Europe recognise a general principle. That is, when developed countries liberalise the market for established products from preferential suppliers in developing nations, transitional support is essential if the industry concerned is not to fail. In the case of rum, the European Commission and EU member

states finally accepted this principle by establishing the rum programme. But is the EC able, and willing, to offer other ACP industries transitional support, particularly when the costs of the EU enlargement will be straining the EU's budget?

An ACP private-sector entity is playing the lead role in managing the 8th EDF rum programme

The rum programme is the EC's second largest ACP private sector programme after PROINVEST, a new 110 million facility that aims to promote investment and technology flows to enterprises operating within key sectors in the ACP States. Uniquely, the rum programme will be managed on behalf of the Caribbean Forum of ACP States (Cariforum) by an ACP private sector association, the West Indies Rum and Spirits Producers Association (WIRSPA).² By agreeing to this, the EU and ACP have made real, perhaps for the first time, their stated commitment in the Cotonou Partnership Agreement to make non-governmental actors full partners in the delivery of development. Does this suggest a new willingness on the part of the EU and ACP to make ACP private sector actors central partners in the delivery of development? Has a new precedent been created for future EDF assistance to the ACP private sector?

3 Why did Caribbean rum need a support programme in the first place?

The history of the treatment of rum from the ACP group of states in Europe - including the negotiation and delivery of the 8th EDF rum programme - is complex. In the words of the Chairman of WIRSPA, the story '*could fill many pages of a book that would read more like a high stakes novel than a work of historical fact*'. A summary of the main events in this process is set out in the Annex.

Under the Rum Protocol contained in all Lomé agreements since 1975, Caribbean ACP rum exporters received duty free access under quota to the European market. Once shipped, the product was then branded, bottled and distributed by major European drinks companies, who captured the value added. The quota restrictions largely confined Caribbean ACP producers to supplying low-value commodity rum in bulk to Europe. The industry argued that quotas discouraged investment in the development of locally-owned Caribbean rum brands, as any increase in demand could not be met by increased supply because of the quotas imposed by the EU.

In early 1996, the EU finally removed quotas on ACP rum. Only a few months later in November, the EU and the United States (US) trade negotiators agreed to negotiate a 'Zero for Zero' Agreement on Distilled Spirits. This was a severe and unexpected blow for the ACP rum sector. The Zero for Zero Agreement was proposed in the margins of the 1996 WTO Ministerial Conference in Singapore to facilitate the conclusion of a separate Information Technology Agreement. Surprisingly, the ACP were not consulted, even though Zero for Zero would erode the value of ACP rum preferences to both the EU and US markets, under Lomé IV and the Caribbean Basin Initiative (CBI), respectively.

The ACP Caribbean rum industry, with the full support of its government ACP representatives and negotiators, decided to address the damage done in the post-Lomé trade negotiations. Tough negotiations over a sustained period resulted in a Joint Declaration on Rum (XXV) being agreed just before the negotiations closed. The Declaration defines the main elements of an EDF programme of assistance for the rum sector. It states:

'The Community is prepared to provide sufficient funds to finance during the preparatory period, in consultation with the ACP sector concerned, an integrated sector-specific programme for the development of ACP exporters of rum, which could in particular include the following measures:

² The West Indies Rum and Spirits Producers Association Inc. (WIRSPA) was founded in the 1960s and is an association of national associations of rum producers in the ACP Caribbean. Its aim is to promote and protect the interests of members concerned in the production, export and/or marketing of rum and other locally produced sugar cane based spirits. WIRSPA represents the rum industries in Antigua and Barbuda, the Bahamas, Barbados, the Dominican Republic, Guyana, Jamaica, Suriname, St. Lucia and Trinidad and Tobago.

- *Enhancing the competitiveness of existing exporters of rum;*
- *Assist in creation of rum marques or brands by ACP region or country;*
- *Enabling marketing campaigns to be designed and implemented;*
- *Assist ACP rum producers to meet environmental and waste management standards and other norms in the international markets including the Community market;*
- *Assist the ACP rum industry to move out of bulk commodity production into higher value branded rum products.*

4 The long road from planning to implementation

The negotiation and delivery of the rum programme spanned a full five years from March 1997 - when the EU-US Zero for Zero Agreement was finalised - to August 2002, when programme implementation began. During this time, a wide variety of EU and ACP actors, from both the public and private sectors, played a role at one time or another. On the EU side, keeping its side of the bargain was initially complicated by the fact that the initial stages in the design of the rum programme coincided with major reforms of the European Commission (EC) services.

After political agreement had been reached between the EU and ACP on the Joint Declaration on Rum during the post-Lomé negotiations in February 2000, Directorate General (DG) Development of the European Commission was made responsible for the delivery of the programme. DG Development maintained lead responsibility within the Commission until late 2000, when the EC embarked on the internal reform. As part of this reform process, policy responsibilities were divided between the programming of aid – which remained with DG Development – and the delivery of programmes, which was assigned to a new Commission institution, EuropeAid Co-operation Office (AIDCO). From early 2001, AIDCO was given primary responsibility for the rum programme dossier, with input from both DG Development and DG Trade.

Some ACP observers have suggested that the Commission reforms led to delays to the start of programme implementation because of the new reporting lines and remits of the institutions involved. They added that the implementation of the programme was also complicated because only a small number of senior policy officials from DG Development were actually aware of the circumstances surrounding the high-level political deal on rum that was struck between the EU and ACP in the post-Lomé negotiations.

The next two sections present a summary of the views of officials from the European Commission, EU member states, the ACP, and industry representatives on the difficulties faced by the parties in making the programme a reality. The EC's role in this process is analysed first, including the issues that arose during the final approval procedures with EU member states.

5 Determinant factors in the EC's quest to keep its promise

No tradition of working directly with the ACP private sector

EC officials acknowledged that the Commission is not used to working with the ACP private sector. For them, the challenge was to strike the right balance between respecting the Commission's internal controls and procedures and meeting the need for flexibility that is essential to work successfully with private sector actors. They further stated that the EC's procedures for programming development assistance under the EDF, which were described as 'heavy', are designed for governments, and not for private sector actors.

Within a wider context, some EC officials pointed to the contradictory pressures and expectations that outsiders normally have of the EC's development cooperation activities. On the one hand, the EC's counterparts and beneficiaries of EDF assistance expect quick responses and decisions. On the other hand, European taxpayers and parliamentarians require thorough and transparent procedures in the management and delivery of aid programmes to ensure legitimacy. All of the EC officials interviewed for this study emphasised that the identification and appraisal stages

of the 'Project Cycle' had to be absolutely rigorous because the rum programme was unusually large and ambitious and uniquely, for the first time was to be implemented by an ACP private sector entity.

The EC is prepared to take risks

The officials interviewed were quite unanimous that one of the key elements for them was the level of trust and confidence that was developed between the Commission and WIRSPA during the detailed negotiations on the programme between January 2000 and mid-2002. One AIDCO official noted 'the calibre of the WIRSPA representatives inspired confidence and persuaded the Commission to take risks'. They agreed that this was essential to build trust and instil confidence in an institution that is unaccustomed to working with the ACP private sector.

Other officials also noted that WIRSPA showed itself to be fully aware of the EC's sensitivities regarding transparency and the use of public funds for ACP private sector actors. They added, 'WIRSPA was a very good partner who facilitated the whole process'. It is much harder for the EC to work with weaker industries. WIRSPA also 'knew how to input into the process', and was able to 'provide information and put forward strong arguments quickly as and when required'. They further noted that most of the leading players within the Caribbean rum industry were familiar to the EC as they had visited Brussels on numerous occasions. This was also viewed as a positive for the EC because, according to one official, there was less danger of EDF resources 'getting lost' within the industry.

Several EU member states requested that additional checks and balances be integrated into the programme to cope with the possible risks. As a result, the Commission proposed a system for the ongoing monitoring of the programme. Unusually, it was agreed that this would be done externally rather than through the Evaluation Unit within AIDCO. One EC official noted that this new concept will now be introduced for other EDF private sector programmes for the ACP private sector, such as PROINVEST.

EC officials also pointed to several instances where the Commission was prepared to adapt its normal working practices in the design of this unique programme.

- A derogation from EDF procedures was agreed in relation to the provision of bank guarantees. Private sector entities are usually permitted to manage EDF programmes only if they can provide an appropriate bank guarantee. In this case, WIRSPA was unable to provide all the necessary guarantees, as it is an association of national associations. As such, it has few assets to support a bank guarantee.
- In keeping with the decentralised approach adopted by the EC for this programme, EC officials agreed to allow a higher degree of flexibility for WIRSPA and CARIFORUM to take decisions and make payments for goods and services.
- Thirdly, the EC worked closely with WIRSPA to draw up a 'Manual of Procedures' that were quite specific to the rum programme. Elements of the matching grant scheme under the EU-ACP Business Assistance Scheme (EBAS) facility were incorporated, as were lessons from previous EC decentralised cooperation programmes.

The EC was locked in double negotiations

EC officials were effectively engaged in double negotiations. On one side were CARIFORUM and WIRSPA, and on the other were the EU member states at the EDF Committee. These negotiations were made more complex because the rum programme was so unique for a variety of reasons. Firstly, it had been agreed as part of a political deal at the end of the post-Lomé trade negotiations to help ACP rum producers deal with the problems arising from the unilateral liberalisation of the European rum market. Secondly, politically agreed support for an ACP industry in economic transition to a liberalised market does not fit into the normal criteria for development cooperation programmes using EDF resources. Thirdly, the Caribbean is comprised of mainly middle-income developing countries and therefore less of a priority in terms of EDF assistance to alleviate poverty. Many of these issues came to the surface when the Commission presented the draft financing proposal to the EDF Committee in September 2001.

EU member states were concerned about the risks of working with the ACP private sector

The concerns raised by EU member states when considering the financing proposal for the rum programme were varied. Some reflect the philosophical difficulties that EU member states have with supporting commercial enterprises in the ACP private sector. These should be considered within the ongoing debate within Europe concerning

how to promote private sector development within ACP states. The following is a summary of some of the concerns that arose during EDF Committee discussions on the draft financing proposal. These were highlighted in interviews or correspondence with European officials:

- *The need to target SMEs* - Several EU member states expressed concerns about the size of the enterprises that will benefit from the programme. Commission officials responded that the programme gives a clear emphasis to SMEs that will benefit from preferential treatment in terms of accessing resources. They also made clear that large non-ACP owned companies should not be the main targets of the programme. This issue highlights the concerns of EU member states regarding the legitimacy of supporting commercial, profit-making ACP enterprises using EDF resources.
- *The role of grants for the ACP private sector*. During the EDF Committee discussions, two EU member states proposed that the 70 million of grant resources should be converted into loans. EC officials have indicated that grant resources from the EDF are rarely used for financing capital investment for the ACP private sector. In this regard, one EC official noted that 'this would be very unlikely to happen again', regardless of whether cost sharing is a main element of the programme. One DG Development official noted 'that the role of grants in private sector development in ACP countries should be clarified, to define what grant EDF resources should be used for'. The official also noted that in future, grant resources from the EDF would be used as seed funding to attract the participation of commercial banks in economic activities in the ACP private sector. In future, it would be harder to justify large sums of grant resources from the EDF being directed to the ACP private sector.
- *Competing commercial interests within Europe*. One official from a Northern European state noted that several EU member states were uncomfortable with the notion of assisting ACP enterprises to compete with European companies. This view was echoed by another European official who emphasised that 'it is easier to do development cooperation in areas where there are no competing interests', such as in the health and education sectors. The issue of competing commercial interests within Europe was felt particularly strongly when the marketing element of the rum programme was discussed within the EDF Committee.
- *The relevance of the programme to poverty alleviation*. Several EU member states questioned how the programme would have a positive impact on poverty alleviation in ACP countries, the main overarching objective of EDF assistance. The issue of whether economic transition programmes for ACP industries are legitimate vehicles for poverty alleviation remains unresolved. This raises important questions such as whether the EDF Committee is the correct forum for reviewing trade-related assistance programmes. Some within the ACP have commented that the 8th EDF rum programme is a poverty prevention programme. They point to the final text in the Annex to the Financing Agreement, which states 'the project is directed at preventing a further deterioration in the socio-economic conditions of the region (in terms of jobs, export earnings and tax revenue losses) that would be brought about by the on-going trade liberalisation in the spirits market'³.

The strong public-private dialogue within the Caribbean ACP enhanced the programme's legitimacy

EC officials also viewed the strong relationship that had been established between WIRSPA and Cariforum as essential to the programme. They observed that the Cariforum-WIRSPA relationship was a model of public-private relations, and this axis of trust between the regional public and private sectors made the EC's work much easier. Cariforum's strong endorsement of the programme was essential for the EC as this 'persuaded the EC to go much further than we normally do' in the design of the programme. The project was clearly also 'demand-driven' with a high degree of regional ownership. Both these issues encouraged the EC and convinced it to take risks.

At the level of AIDCO it was considered very unusual for an ACP private sector association to be entrusted with the management of its own programme, and that this 'was the major achievement'. The inter-governmental body Cariforum had proposed that WIRSPA, an ACP private sector association, be given the lead role in implementing the programme. This represented a major break from the past, as the issue of who should receive EDF resources has rarely been a source of public-private consensus in ACP countries. It was therefore agreed among the stakeholders that WIRSPA would be the executing agency and the Project Management Unit (PMU) should be located within the WIRSPA secretariat in Barbados.

³ From the Annex on 'Technical and Administrative Provisions for Implementation' to the Financing Agreement between the European Commission and the Member States of the Cariforum for the Integrated Development Programme for the Caribbean rum sector, January 2002.

6 Determinant factors in the Caribbean ACP countries' quest for a result on rum

Regular dialogue with other ACP parties.

Caribbean ACP officials have commented that 'there was no negative comment or hostility' from either Africa or the Pacific even though the 8th EDF rum programme will only benefit rum producers in Caribbean ACP countries. This was mainly because the ACP was kept informed of the rum industry's position, both during and after the post-Lomé negotiations. During the post-Lomé negotiations, WIRSPA and Caribbean negotiators maintained a direct dialogue with the ACP Secretariat on the general matters of principle involved and made sure that the lead ACP Ambassadorial Negotiators on Trade, although from non-rum producing nations such as Namibia and the Cameroon had a full understanding of the issues surrounding the rum dossier.

After the post-Lomé negotiations had concluded, contact with the ACP was maintained through the ACP Working Party on Rum, a sub-committee of the ACP Trade Committee which meets in Brussels at Ambassadorial level. This Working Party comprises Brussels Ambassadors from Caribbean rum producing states and other ACP rum producing nations such as Fiji, Madagascar, and Mauritius.

The industry made the job of the officials easier by always presenting background briefs with relevant information and supporting arguments. WIRSPA's private sector diplomacy also extended beyond public officials: interested non-governmental organisations (NGOs) were briefed, as were journalists from Caribbean newspapers and specialist publications in Europe. During these briefings, WIRSPA made clear to anyone who would listen that addressing the damage done to the rum industry by the 1997 Zero for Zero Agreement was an issue of principle for future ACP-EU trade relations.

The industry had a clear strategy and invested in the process

During the course of early 1997, rum industry leaders decided on a multifaceted response strategy for the industry's relations with Europe, which aimed to ensure that the Zero for Zero Agreement did not become a 'knock out blow' for the sector. This strategy was based on effective private sector diplomacy. Its ultimate objective was to have the EU recognise that the industry had been damaged by Zero for Zero, and that it required support to undergo the rapid transition from preference to free trade that Zero for Zero had created. WIRSPA sustained this highly proactive strategy throughout the negotiation of the Joint Declaration on Rum in the post Lomé negotiations in December 1999 right through to the implementation of the programme in August 2002.

Two-way information flows

WIRSPA also realised that it had to have the most up to date information regarding any discussions or developments within Europe that could impact on the treatment of Caribbean rum. WIRSPA was able to develop an 'over the horizon' information capacity that enabled the industry to monitor any discussions or developments that could have an impact on the rum dossier. This was facilitated by the proactive support of Caribbean government officials in Brussels and WIRSPA's advisers in Europe, who maintained a constant 'watching brief' on relevant developments.

Within the Caribbean, WIRSPA briefed and continually updated governments through each local association. This ensured that key actors such as Caricom (Caribbean Community) officials and the Caribbean Regional Negotiation Machinery (CRNM) negotiators were kept fully updated. During the post-Lomé negotiations, a comprehensive industry negotiating position paper was produced and distributed among Caribbean and ACP officials outlining the industry's requirements from these negotiations. This position paper was then integrated into the Caribbean regional negotiating position for the post-Lomé negotiations. It enabled Caribbean officials to raise the issue of rum at every regional and ACP meeting.

Alliances were established to encourage political support

During the period 1997-2002, WIRSPA forged a number of alliances with interested parties within Europe and the Caribbean. These alliances were essential for demonstrating that the rum programme had widespread political support within the EU and the ACP. They also ensured that the momentum for early implementation of the programme was maintained, particularly during the delays arising from the Commission reform in 2001.

A chronology of all the activities and interventions that occurred at a political level would run into many pages. The following is a summary:

- several supportive Resolutions on rum were passed at the ACP-EU Joint Parliamentary Assembly;
- questions were asked by sympathetic Members of Parliament of the UK government during parliamentary debates in London;
- European MEPs also raised the issue of rum with the EU President and EC Commissioners;
- the WIRSPA Chairman delivered presentations to the European Parliament Development Committee in Brussels and the Joint ACP-EU Parliamentary Assembly in the Bahamas in 1999;
- the European Parliament's Budget Committee signalled their political support for assisting the industry by approving a budget line in late 1999;
- the Lead ACP Ministerial Trade Negotiator raised the issue of rum with EC Trade Commissioner Pascal Lamy, and Caribbean Heads of State raised the issue of rum in letters to several of their European counterparts.

WIRSPA also nurtured its relations with interested groups within the international distilled spirits industry. Three separate Accords were reached with the French CIRT-DOM producers. This support from within Europe undoubtedly helped the French Government to understand WIRSPA's aims during and after the post-Lomé trade negotiations. WIRSPA also maintained a relationship with other distilled spirits industry groups in Europe.

WIRSPA met on a regular basis with the Brussels representatives of EU member states and provided them with briefing papers as and when appropriate. This helped to establish the credibility of WIRSPA as an effective and responsive regional private sector institution. Meetings were also held with senior officials from the French and British governments, both of which have political and strategic interests in the Caribbean. WIRSPA also established a continuous presence in Europe through its appointed EU advisers.

Finally, WIRSPA maintained an ongoing and supportive dialogue with key European Commission officials in DG Trade, AIDCO and DG Development who were responsible for delivering the rum programme.

7 Will the ACP private sector now become a full partner?

Some observers have suggested that the rum programme represents an encouraging first sign that the EC will implement the numerous Cotonou commitments to make non-governmental actors full partners in the delivery of development. However, recent developments in Brussels indicate that this optimism could be misplaced, and the rum programme may not in fact reflect a fundamental shift in the EC's thinking on private sector development in ACP countries after all.

Several of those interviewed in early 2003 referred to the new Commission proposal for the use of 9th EDF resources.⁴ The EU Council adopted the proposed 'Financial Regulation' in March 2003, which will apply to all EDF programmes under the 9th EDF.⁵ One of the main aims of the proposal, drafted by DG BUDGET, is to bring the EDF's financial procedures into line with the main EU budget procedures. Worryingly for some within the ACP, some provisions of the new 9th EDF Financial Regulation appear to preclude ACP private sector actors from managing EDF programmes in the future.

The potential implications of the 9th EDF Financial Regulation are wide-ranging. *Firstly*, private sector entities, whether from the EU or ACP, may no longer be permitted to manage EC projects using EDF assistance. In practical terms, private sector support instruments such as EBAS and DIAGNOS, which were managed externally by European consultancies under contract to the EC, may not be repeated. *Secondly*, the new 9th EDF Financial Regulation could also mean that the rum programme, with its unique achievement of entrusting the management of the programme to an ACP private sector association, may never be repeated. This led one Caribbean official to mournfully comment that the programme is likely to be 'a prototype of one', regardless of whether it is successful or not.

Some Brussels officials have indicated that the Commission proposal for a 9th EDF Financial Regulation appeared to contradict the spirit and the letter of the Cotonou Agreement, which has private sector development as one of its main aims. Within the private sector provisions of the Cotonou Agreement, the ACP private sector is recognised as a central partner in the delivery of development. Against this background, it is certainly surprising that the ACP were not formally consulted on this EC proposal in view of its major implications for future EDF assistance to the ACP private sector under Cotonou.

Box 1: The 9th EDF Financial Regulation: *closing the door to the private sector?*

The following two paragraphs from Article 14 of the Financial Regulation appear to impose new limitations on the role of private-sector entities in programmes using 9th EDF resources.

Paragraph 3 states:

'Within the limits laid down in paragraph 2, the Commission may entrust tasks involving the exercise of public authority, in particular financial implementation tasks, to:

- a) the executive agencies referred to in Article 15 [*which states that 'the executive agencies shall be legal persons under Community law created by Community decision...'*]
- b) national public sector bodies governed by private law with a public service mission and providing adequate financial guarantees for the implementation of the tasks assigned to them.....'

Paragraph 7, sub-paragraph 2, states:

'The tasks which the Commission may entrust by contract to external private sector entities or bodies other than those referred to in point (b) of the first sub-paragraph of paragraph 3 shall be technical expertise tasks and administrative, preparatory or ancillary tasks involving neither the exercise of public authority nor the use of discretionary power.'

⁴ Proposal for a Council Regulation on a Financial Regulation applicable to the 9th European Development Fund, COM (2002) 290 Final (OJ C 262 E/533, 29.10.2002).

⁵ Financial Regulation of 27 March 2003 applicable to the 9th European Development Fund (OJ L 83, 1.4.2003). See particularly Articles 14, paragraphs 1-3 and 7, and Article 15.

8 What conclusions can we draw?

During the series of informal interviews conducted for this case study, the EUR 70 million 8th EDF rum programme was variously described as 'groundbreaking', 'a model of public-private partnership' and, by one rather pessimistic observer, as a 'prototype of one'. Some within the ACP have commented that this sum was in effect a compensation package for the early liberalisation of the industry's preferential market in Europe that began in 1997. EC officials have been notably more reluctant to use the word 'compensation', perhaps for fear that a precedent may be set for other ACP industries.

Several interviewees pointed to the considerable risks taken by both the European Commission and their ACP counterparts in making the programme a reality, and by giving the ACP private sector such a central role in its management. They warned that lessons can only be identified from this experience once the programme has run its course, which will be in 2007. For these more cautious observers, the jury is out on whether this experience does indeed provide the EU and ACP with a test case worth emulating.

This case study revealed some unease among EC, EU member states and ACP officials about the present direction of EC policy towards private sector development in ACP countries. In that respect the Commission's proposal for the 9th EDF Financial Regulation was described as very disappointing. The proposal and new Financial Regulation suggest that the commitment to promoting public-private partnership in the ACP remains uncertain in Brussels. The question can be raised whether the 9th EDF Financial Regulation signals the end of the Commission's brief experiment with working directly with ACP private sector actors.

What is clear from the various interviews with the stakeholders is that there are wide ranging views with the European Commission, and EU member states, about how best to stimulate private sector development in ACP countries. As one Brussels-based Caribbean official noted, the 'EC should not be considered a monolith' on such issues. Many of these tensions surfaced during the design of the rum programme, when some EC officials made clear their opposition to the programme and its strong private sector-led approach. It could be argued that in respect of the 8th EDF rum programme, the views of the more private sector friendly camp within AIDCO and DG Development prevailed. It could also be argued that, in relation to the new 9th EDF Financial Regulation, the more risk-averse camp of EC officials redressed the balance.

A re-energised debate is needed on EDF assistance to the ACP private sector

Although it was never stated explicitly by any of the interviewees, there appears to be a need for a re-energised debate within Europe and the ACP on how best to stimulate private sector development in ACP countries. Clearly, major contributions are urgently needed from the ACP private sector itself if it is to articulate its needs from EDF assistance under Cotonou. This debate could seek to resolve some of the outstanding questions:

- What is the role of EDF grant resources in ACP-EU development cooperation for private sector development in ACP countries? Where should EDF grant resources be utilised instead of loans?
- How can the ACP make best use of the new ACP-EU Investment Facility – which will have at its disposal 2.2 billion – under the management of the European Investment Bank (EIB)?
- Does the ACP private sector want EC private sector support instruments such as DIAGNOS and EBAS to continue? In this regard, it should be noted that the European Commission is in the process of reviewing these instruments.
- Is the new 9th Financial Regulation consistent with the provisions of the Cotonou Partnership Agreement, which has private sector development as one of its main objectives?
- What will be the impact of the Commission's decision to devolve authority to EC delegations in the ACP? Will it make the approval and implementation procedures faster⁶?

The engagement of the ACP private sector in these policy debates will of course be essential if EDF assistance is to closely match the needs of the intended beneficiaries. Without this engagement, the priorities for private sector development in ACP countries will continue to be set by public sector officials, either in Brussels or ACP capitals.

⁶ ACP National and Regional Authorising Officers adopted the Brussels Declaration on 12 May 2003 in which they called for an 'efficient implementation of EDF-funded projects and programmes' to address the 'slow rate of disbursement of EDF resources'. Source: ACP Secretariat Press Release, *Meeting of ACP National and Regional Authorising Officers in the margins of the ACP Council of Ministers*, 12 May 2003.

Both the EU and ACP need private-sector support mechanisms

Both EC and Caribbean officials highlighted the important role of the DIAGNOS facility in ensuring the Caribbean rum industry's needs were rapidly assessed. DIAGNOS was established by the EC in 1999 as a support mechanism for the ACP private sector, and its role was to undertake diagnostic studies of the constraints facing priority ACP sectors. DIAGNOS enabled the EC to rapidly assess the needs of the ACP Caribbean rum sector in late 2000. Consultants were retained, using DIAGNOS resources, to draft a financing proposal for the consideration of the Commission and the stakeholders, and eventually the EDF Committee.

Without DIAGNOS, further delays could have been experienced in this early stage of the programme design. The EC would have had to launch a time-consuming tender process for consultants to undertake this type of work. As DIAGNOS was externally managed through an EC Framework Contract, it had additional flexibility and a speed of delivery far beyond the EC's normal internal procedures. Several EC and ACP officials lamented the fact that the DIAGNOS facility was closed in April 2002, as many other ACP industries required this type of fast-tracked assistance with streamlined procedures. DIAGNOS and EBAS were seen as the only support facilities that could provide support to the ACP private sector within a defined time frame. In that context, the decision to discontinue these two private sector support programmes for the ACP is quite difficult to understand.

New procedures are needed for time-sensitive EDF assistance to the ACP

A further conclusion relates to the speed of delivery of EDF assistance programmes. The rum experience suggests that the normal EDF criteria and timescales do not fit well with the need for rapid delivery, in a finite period, of time-sensitive programmes that involve the private sector. During the interviews for this case study, EC officials acknowledged that their procedures are 'heavy'. Even so, they believed that 'the Commission was not that slow in implementing the rum programme'. While it is true that the Commission did navigate through its own procedures relatively quickly in the case of rum, it is also true that these same procedures make the provision of *time-sensitive* EDF assistance practically impossible (e.g. in building ACP capacity for trade negotiations, assistance to an ACP industry in danger of collapse).

On a related issue, critical issues were expressed over the fact that the EC's new EUR 20 million capacity-building facility to assist ACP countries in their preparations for EPAs was only established in July 2002, only two months before the new ACP-EU trade negotiations were launched. This support, while welcome, is being provided late for the ACP to take advantage of it in the preparation of initial negotiating position. In addition, questions have also been raised over the difficult access to this facility by ACP private sector. These experiences lead to a further important question: Is there a need for a new fast-tracked EC approach to delivering EDF assistance to the ACP when this support is time-sensitive?

The EU respected the political deal struck with the ACP on rum exports

One of the main conclusions of this case study was articulated by an ACP official who commented that '*it is significant that the political deal* [made during the post-Lomé negotiations to support the ACP rum sector] *was respected by the EC.*' This should not be under-stated. The decision of the EDF Committee to approve the programme demonstrates that the European Commission, and EU member states are prepared to support financially the process of economic transition in those ACP countries and industries where markets are liberalised. The decision also shows that the Commission is able to take risks in working with the ACP private sector if it has credible and committed partners.

Whether the EC actually does so in future will depend on whether ACP industries are able to work with their government representatives to articulate their needs clearly in Brussels. One EC official emphasised that WIRSPA was able to 'operate at a high political level when necessary'. This suggests that the rum programme may only be repeated if other ACP industries manage to generate a similar level of political momentum in the current ACP-EU trade negotiations. But how can this be achieved?

A new template for ACP private-sector diplomacy in trade negotiations

The 8th EDF rum programme has proved what government and industry working together with the same objectives can achieve. From the outset, WIRSPA recognised the value of public-private coordination and dialogue, both in its own region and in Brussels. The industry's close working relationship with CARICOM, CARIFORUM, the CRNM, Caribbean trade ministers and government representatives in Brussels in Geneva enabled the highest levels of co-ordination, and the delivery of a positive result.

Clearly, it is premature to promote the 8th EDF rum programme as a model worth emulating. Lessons for future EDF assistance to the ACP private sector can really only be identified once the 8th EDF rum programme has run its course in 2007. Only time will tell whether the programme's transitional support is successful in helping the industry to compete with its own rum brands in liberalised international markets.

What has been created, however, is a template for effective ACP private sector diplomacy with government in ACP-EU trade negotiations. **The main elements of such a template are:**

- Public-private dialogue with government officials and trade negotiators in capitals and Brussels to forge a unified public-private position and set of common negotiating objectives;
- Be proactive and commit time and effort to the trade negotiating process to promote the industry position, including through regular visits to Brussels;
- Development of strategic alliances in Europe and the ACP;
- Ensure that industry players set aside any competing commercial interests for the greater good of the sector;
- Put in place a committed and united industry leadership that is respected by trade negotiators and officials on both sides; and,
- Establish a mechanism for the constant exchange of information between industry and negotiators, including through the production of written briefs and other documentation.

Although these actions had a substantial cost, especially when sustained over a number of years, this should be weighed against what is at stake. The current ACP-EU trade negotiations for EPAs are an opportunity for other ACP industries to adapt this template to their own needs.

Annex: The history of the 8th EDF rum programme

The history of the treatment of rum from the Africa Caribbean and Pacific (ACP) group of states in Europe - including the negotiation and delivery of the 8th European Development Fund (EDF) rum programme - is complex. In the words of the Chairman of the West Indies Rum and Spirits Producers Association⁷ (WIRSPA), the story '*could fill many pages of a book that would read more like a high stakes novel than a work of historical fact*'. A summary of the main events is set out below.

From the 1970s to 1996: quotas for ACP exports to Europe

Under the Rum Protocol contained in all Lomé agreements since 1975, Caribbean ACP rum exporters received duty-free access under quota to the European market. These quotas confined Caribbean ACP producers to supplying low-value commodity rum in bulk to Europe. Once shipped, the product was then branded, bottled and distributed by major European drinks companies, who captured the value added. Throughout this period, WIRSPA argued that quotas discouraged investment in the development of locally-owned Caribbean rum brands, as any increase in demand could not be met by increased supply because of the quotas imposed by the European Union (EU). The quota system was designed principally to protect domestic EU rum producers, based in the French Départements D'Outre Mer (DOM), in the European rum market.

The 1997 EU-US Agreement on Distilled Spirits ('Zero for Zero')

In November 1996, only a few months after the EU finally removed quotas on ACP rum, EU and United States (US) trade negotiators agreed to negotiate a 'Zero for Zero' Agreement on Distilled Spirits. This was proposed in the margins of the 1996 World Trade Organisation (WTO) Ministerial Conference in Singapore to facilitate the conclusion of a separate Information Technology Agreement. The ACP were not consulted on this, even though Zero for Zero would dramatically erode the value of ACP rum preferences to both the EU and US markets, under Lomé IV and the Caribbean Basin Initiative (CBI) respectively.

In early 1997, Caribbean governments protested strongly that they had not been consulted in Singapore, despite the EU's existing treaty obligations to the ACP under Lomé IV. In response, the EU and US agreed that it would be necessary for a special exception to be made in the case of rum to reflect the concerns of ACP and DOM rum producers. They therefore agreed to attach a Memorandum on Rum to the Zero for Zero Agreement allowing for special arrangements for the phasing out of tariffs.

In March 1997 the EU and US finalised the Zero for Zero Agreement. Despite the special arrangements for rum, Zero for Zero signalled the abrupt and unexpected end of tariff preference for most ACP rums in the EU and US markets. The Memorandum on Rum set out a complex tariff elimination package that reduced the EU's and US's Most Favoured Nation (MFN) duties to zero on four of the six tariff lines for rum in annual stages by 1st January 2003. It also reduced MFN duties to low levels on the remaining two tariff lines for rum. These residual MFN duties will remain in place after 1st January 2003, thereby preserving a small measure of preference for ACP rum exporters to the EU and US markets. The architects designed the system in such a way that this residual preference will phase out automatically over time as inflation erodes the value of the (un-indexed) price points at which the residual MFN duties are applied.

⁷ The West Indies Rum and Spirits Producers Association Inc. (WIRSPA) was founded in the 1960s and is an association of national associations of rum producers in the ACP Caribbean. Its aim is to promote and protect the interests of members concerned in the production, export and/or marketing of rum and other locally produced sugar cane based spirits. WIRSPA represents the rum industries in Antigua and Barbuda, the Bahamas, Barbados, the Dominican Republic, Guyana, Jamaica, Suriname, St. Lucia and Trinidad and Tobago.

The EU Council and Commission Declaration on rum in 1997

As representations were being made to obtain a separate Memorandum on Rum, it became apparent to ACP negotiators that it would be beneficial to resolve the post-Lomé arrangements for ACP rum at that time. However, the European Commission took the position that it would not negotiate any arrangement or transitional support for an individual ACP industry outside of the post-Lomé trade negotiations. These were not due to begin until September 1998. Instead, after sustained protests by Caribbean governments and WIRSPA, the EU General Affairs Council (GAC) approved a Declaration on March 24th, 1997. The Declaration included the following statement:

'They [the Council and the Commission] recognise the likely impact of the EU-US agreement on the ACP exports of rum to the EU market and confirm that this will be taken fully into account in any future negotiations and arrangements related to the rum sector.'

The post-Lomé trade negotiations (1998-2000)

The ACP-EU trade negotiations for a post-Lomé Agreement began in September 1998 and concluded in February 2000. Despite the joint Council and Commission Declaration of 1997, Caribbean governments and WIRSPA had to make strenuous representations to ensure that the issue of ACP rum's early liberalisation was included in the negotiations. They argued that transitional support was needed if the industry was to survive the 2000 – 2003 transition out of preference to free trade that the EU and US had imposed.

At the same time WIRSPA also developed a number of strategic alliances with other industry groups in Europe. Most importantly it established a dialogue with French rum producers from the DOM who had also been disadvantaged by the Zero for Zero agreement and signed with their representative association (Le Conseil Interprofessionnel du Rhum Traditionnel des Départements d'Outre Mer, CIRT-DOM) a series of mutually supportive Joint Accords.

WIRSPA also began to encourage the interest of the European Parliament, particularly the Development and Budget Committees, in the ACP rum dossier. During 1999, sympathetic Members of the European Parliament (MEPs) raised the issue with the EU Presidency and the European Commission (EC) Commissioner for Development. With cross-party support, the Parliament's Budget Committee agreed to create an EU budget line to support ACP rum producers, but with no resources attached (a so-called 'budget line pm'). This signalled to the European Commission and EU member states that the Parliament was politically supportive of the rum industry's case for transitional assistance to help it cope with the effects of the Zero for Zero Agreement.

As the post-Lomé trade negotiations neared their conclusion, it became clear to the EC and EU member states that rum was an issue of principle for the ACP. The Lead ACP Ministerial Negotiator responsible for Trade, the then Jamaican Minister of Foreign Trade Anthony Hylton, and the Chief Negotiator of the Caribbean Regional Negotiating Machinery (CRNM), Sir Shridath Ramphal, continually reminded the EU through the ACP of the commitment made to the ACP by the EU Council in March 1997. As negotiations continued through the night during the penultimate ACP/EU Negotiating Council in December 1999, agreement was reached between the parties on a Joint Declaration on Rum (XXV). This was annexed to the Cotonou Agreement. Paragraph four of the Declaration identified the main elements of the programme. It states that:

'The Community is prepared to provide sufficient funds to finance during the preparatory period, in consultation with the ACP sector concerned, an integrated sector-specific programme for the development of ACP exporters of rum, which could in particular include the following measures:

- *Enhancing the competitiveness of existing exporters of rum;*
- *Assist in creation of rum marques or brands by ACP region or country;*
- *Enabling marketing campaigns to be designed and implemented;*
- *Assist ACP rum producers to meet environmental and waste management standards and other norms in the international markets including the Community market;*
- *Assist the ACP rum industry to move out of bulk commodity production into higher value branded rum products*

Later that night after a review of the agreed text, WIRSPA realised that specific language was needed on the source of the funding. Only in January 2000 when the ACP and EU met for the final time was text added that made clear that the funding for the programme would come from unallocated EDF resources:

'This package of measures will be financed on a national and regional basis, by agreement of both parties, through specific sectoral programmes in accordance with programming rules and methods and, in the short term, through unallocated EDF resources after a decision of the Council of Ministers.'

Implementing the Cotonou Joint Declaration on rum

But that was not the end of the story. A new problem arose soon after the post Lomé negotiations concluded. That was turning what had been agreed politically in the Joint Declaration into reality, in the form of a practical programme of transitional assistance that met the industry's needs. The pressure for early implementation increased as the looming deadline of market liberalisation on 1st January 2003 drew nearer.

Finally, in November 2001 the EDF Committee approved a four-year package of transitional support with a grant contribution of EUR 70m from unallocated EDF resources, in addition to a significant cost-sharing element from the industry, estimated at EUR 78 million. A year later in August 2002, the programme became operational. That is to say four years and five months after market liberalisation began in March 1997, or four months before market liberalisation occurred on January 1st 2003.

Box 2: The key events between January 2000 and August 2002

Dec. 1999:	Joint Declaration on Rum agreed by the EU and ACP, including an EU commitment to finance 'an integrated sector-specific programme for the development of ACP exporters of rum'.
Jan. 2000:	Agreement reached to fund programme with unallocated EDF resources.
Jan.-Sept. 2000:	Discussions between WIRSPA, CARIFORUM and DG Development to validate the type of programme that were required, and to develop proposals for the EDF Committee on the measures to be financed.
Aug. 2000:	DIAGNOS, an EC private sector support instrument, undertakes a diagnostic study of the industry's needs.
Dec. 2000:	DIAGNOS consultants conclude their study and report back to the Commission services. European Commission reform takes place and EuropeAid is established (or 'AIDCO') on 1 st January 2001.
Dec. 2000:	A draft EDF financing proposal is produced by DIAGNOS consultants for discussion within the Commission.
Feb-Jun. 2001:	Internal discussions within the Commission and with Cariforum and WIRSPA on the financing proposal.
Sept. 2001:	Financing proposal presented to the EDF Committee of EU member states by the European Commission. After negative comments the Commission withdrew the proposal.
Oct. 2001:	Financing proposal re-submitted to the EDF Committee taking account of the comments of EU member states, and agreed to deal with the proposal by 'written procedure'.
Nov. 2001:	EDF Committee agreed on the Financing Proposal by 'written procedure' just before November EDF meeting.
Jan. 2002:	The Financing Agreement is signed by the European Commission and Cariforum in Guyana.
June 25th, 2002:	The Service Contract is signed between WIRSPA and Cariforum.
August 2002:	The EUR 70 million 8 th EDF rum programme becomes operational.

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