

Update on regional EPA negotiations

Caribbean-EU Economic Partnership Agreement



The purpose of this *Update* series is to provide relevant information on the Economic Partnership Agreement (EPA) negotiations between the 6 African, Caribbean, and Pacific (ACP) regional groupings and the European Union (EU). Each Update offers a snapshot of the progress made in the respective regions, including the main issues at stake and outstanding challenges. This Update series complements the Overview of Regional EPA Negotiations series and will be produced every 6 months until the conclusion of the EPAs.

The negotiating calendar

Following the first phase of EPA negotiations at the all-ACP level (September 2002 to September 2003), negotiations between CARIFORUM and the European Commission (EC) were officially launched in Kingston, Jamaica, on 16 April 2004. At that first regional ministerial session, both sides agreed on a plan and schedule fixing the main goals and principles of the negotiations, as well as the structure and an indicative schedule for their completion.¹ They notably agreed to conduct the negotiations in four phases:

Phase one (April to September 2004) was to establish the priorities of the EPA negotiations.

Phase two (September 2004 to September 2005) was to reach convergence on the strategic approach to CARIFORUM regional integration.

Phase three (September 2005 to December 2006) was for structuring and consolidation of the negotiations.

Phase four (December 2006 to December 2007) was reserved for finalisation.

Phase one and two: regional priority setting

The first two phases, from April 2004 to September 2005, led to broad agreement on the scope and priorities of the negotiations and a better joint understanding of what is intended with regional integration. Both sides have acknowledged the success of the second phase in meeting its two declared objectives: (i) definition of the nature and scope of the respective CARIFORUM and EC economic spaces, assuming commitments under an EPA, and (ii) identification of priorities pertaining to CARIFORUM's regional integration alongside a

commitment by the European Commission to support the implementation of these priorities although this support has so far not been forthcoming.

The Caribbean is currently undergoing several regional integration processes. The main ones relate to the CARICOM Single Market and Economy (CSME) and the CARICOM-Dominican Republic free trade agreement (FTA). In that respect, the region has attached great importance to securing *variable geometry and differentiation* in the scope and implementation levels of both the CSME and the CARICOM-Dominican Republic FTA, and in the special trade measures to be accorded to least-developed countries. For CARIFORUM countries, these are necessary principles to be incorporated in EPA regional integration considerations.

The CARIFORUM group has identified two broad areas of regional integration priorities: (i) institutional strengthening and capacity building of the regional bodies responsible for standardisation and certification, customs, investment and competition and (ii) development and implementation of policy strategies for services, taxes, intellectual property, government procurement and competition. In this context, the Caribbean has submitted eleven requests for the strengthening of regional institutional capacities, as a prerequisite for any bi-regional commitments. The lack of progress in dealing with these requests has led to considerable disillusionment on the Caribbean side.

From the point of view of the European Commission, there is a commitment to

support CARIFORUM's regional integration process and the implementation of the identified priorities, but the form of this support is to be determined in the subsequent negotiation phase.

Progress in other areas

Beyond the regional integration priorities, technical discussions at various levels have been initiated. These exchanges of views have centred on conditions for market access, services and investment and on trade-related issues. Discussions on market access are aimed at determining an approach to, and the degree of, trade liberalisation and elimination of import duties. Negotiations have commenced on customs and trade facilitation, sanitary and phytosanitary (SPS) standards, technical barriers to trade (TBT) and other non-tariff measures. The Caribbean has repeatedly stated the importance of invocation of the principles of variable geometry and differentiation, while the EC has championed the case for a Caribbean customs union. Such issues are to be covered in the second and third phase of negotiations.

Phase three: focus on substantive issues

The third negotiating phase, initiated in September 2005, is scheduled to be finalised by end 2006. Building on the outcomes of previous phases, its focus is on the substance of the agreement. Early on a number of stumbling blocks and differences between the negotiating parties were exposed which might play a central part in the final EPA negotiation outcome.² From February to July 2006, one principal negotiators' meeting and four rounds of technical negotiating groups took place.

Real market access

In terms of market access, the degree of trade liberalisation and the setting of a starting tariff line have dominated the agenda during the first half of 2006. First antagonisms became visible, as the EC pushed for the early adoption of a common starting tariff line for all CARIFORUM EPA countries based on their lowest applied tariffs. CARIFORUM prefers to start from bound rather than applied rates and considers a single starting line unrealistic since its members are facing three simultaneous integration processes taking place at various pace and intensity. Further disagreement emerges from the EC's expectation of non-discrimination compared to CARIFORUM treatment granted to other developed partners. The EC proposes that the level of flexibility in market access demanded by the CARIFORUM countries should be in line with what CARIFORUM has demanded or obtained from developed countries in other Free Trade Agreements, notably in the US-CAFTA agreement.

Caribbean pace and degree of regional integration

Talks on broader regional integration and prioritisation issues have also been further pursued. Though the details remain confidential, the main features and divergences in positions and interests are in some cases discernible. Caribbean countries negotiating an EPA are keen to pursue a single market and regional economic integration goals, provided the speed of this integration is paced so as to meet any capacity building and institutional strengthening required to complete the process. The region therefore appears reticent to fast track regional integration for the purpose of meeting EPA commitments. Further, the Caribbean negotiators have no political mandate to constitute a customs union at this junction. The European Commission on the other hand would like to see, in addition to market access schedules, common CARIFORUM commitments in a number of areas: SPS and TBT regimes, services, investment, government procurement, intellectual property, competition policy and dispute settlement.

The development dimension

As for the treatment of the development dimension in an EPA, the issue has been

brought to the forefront in the third negotiation phase. While both sides agree that the development dimension should be given centre stage in an EPA, its concrete form remains in question. According to CARIFORUM countries, for an EPA to fulfil its goal as an instrument for development, its development provisions must include pro-development trade and investment commitments and support for economic reform in the region, while leaving enough policy space for countries to implement national poverty alleviation and development programmes. Further, the liberalisation process should take into consideration the development level of the different countries and any provisions included should address supply-side constraints. Finally, support is needed to assist in EPA implementation and to ensure that any implementation-related adjustment costs are funded. For its part, the EC maintains that EPAs, by supporting regional integration, building regional markets and including special and differential treatment on the products and services to be liberalised, will improve competitiveness, reduce prices, create jobs and wealth and help build a transparent framework conducive to doing business in the region. This should fulfil the development component to be enshrined in the EPA.

Caribbean countries are quite vocal in expressing their dissatisfaction at the low priority given to discussions on the development dimension and the narrow interpretation by the EC. In particular, the emphasis on development that should result from adopting the 'right' policies disregards the strong structural disparities facing the Caribbean countries. Another preoccupation relates to the existing mechanisms for delivery of EU support, as there are serious bottlenecks in terms of effective and timely delivery. The EC has reassured the CARIFORUM region that additional financial support, beyond the European Development Fund (EDF), could materialise, if the EDF resources programmed so far for EPA implementation prove insufficient to meet all EPA-related adjustment costs. It should be stressed however, that during the actual negotiation sessions EC trade officials have appeared unwilling to discuss any extra funding, stating that they have no mandate and stressing that primarily EDF funds should cover any adjustment costs.³

Further discussions on this point are expected in the second half of 2006. Indeed, a formal and comprehensive review of the EPA negotiations will be conducted at this stage, as stipulated in article 37.4 of the Cotonou Agreement.

Services and trade related matters

Regarding other areas of the negotiations, significant developments are still to be achieved, although technical discussions are now fully under way. In the area of services, both parties have agreed to take into account the provisions included in the Cotonou Agreement as well as any commitment made in the World Trade Organization (WTO), specifically GATS article 5. Discussions on investment have revolved around issues pertaining to the right of establishment, dispute settlement regimes and free transfer of capital and profits. In terms of other trade-related issues, substantive negotiations have been conducted on government procurement (transparency), competition policy, intellectual property rights, innovation and trade defence measures, governance, taxation and sustainable development.

The way forward

A dichotomy between the formal and official level of preparation for an EPA and the effective achievements of the technical negotiations has become noticeable at this stage. While the two sides have agreed on principles in all areas to be covered by the EPA, translating these into commonly agreed commitments is proving more difficult. Both sides, however, still appear committed to advancing EPA negotiations. A common understanding of the notion and implications of a "development-enhancing" EPA could break a likely deadlock and contribute to consensus in areas where, at this point, no agreement can be foreseen.

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Notes

- ¹ "Plan and Schedule for CARIFORUM EC Negotiation of an Economic Partnership Agreement", a joint document accepted by the first CARIFORUM-EC ministerial EPA negotiations, Kingston, Jamaica, 16 April 2004.
- ² See "EPA Negotiations Update" in *Trade Negotiations Insights*, Vol.5 No. 2 and 3; 2006; ECDPM.
- ³ See "The word 'partnership' in Economic Partnership Agreement is not there by accident" - Mandelson to ACP Ministers, Brussels, Belgium, 28th of June 2006; European Commission.

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