

## **WHAT'S RIGHT ABOUT THE CARIFORUM EPA**

Sitting in a small and cramped room on a small Caribbean island discussing the merits of the Economic Partnership Agreement (EPA) recently concluded with the European Union, the incongruities between the two “partners” cannot be clearer. This incongruity inevitably gives rise to the question -- can these small economies really enter into a true partnership with an economic powerhouse like the EU? While not attempting to address every criticism that has been levied against the EPA, after a close examination of the Agreement this writer has concluded that the CARICOM negotiators of the EPA appear to have done a number of things right.

### **Why did CARICOM have to negotiate an EPA?**

As this article is being written, the United States and several Central American countries have an appeal pending before the World Trade Organization (WTO) that the European Union continues to grant illegal preferences to the African-Caribbean-Pacific (ACP) countries. The region was sitting on a ticking time bomb and needed to move assertively to minimize the potential negative fall-out from events over which it has little, if any control. Negotiation of an agreement that retains preferential access for its products to the EU market was an effective means of achieving this goal.

### **What did the region get and what did it give away?**

The region received from the EU:

immediate guarantee of duty-free, quota-free access for 100% of its products (qualifications on rice and sugar) that meet the criteria for being qualified as a product of CARIFORUM (CARICOM plus the Dominican Republic);

immediate access for professionals and investors to the service sectors in 27 countries

commitments of development and cooperation assistance to implement the EPA

The region granted to the EU:

beginning in 2011 decreasing tariffs on 90% of EU product leading to duty-free access by 2034

immediate access for professionals and investors in up to 62% of the region's service sectors

commitments to implement reforms to support EPA implementation

At the same time, the EPA is a very complicated agreement containing hundreds of pages of provisions, a number of which need to be met to ensure that the region's products and service professionals receive the promised market access. It's time to get to work.

### **Is the Agreement sufficiently pro-development?**

The true test of this is not whether the Agreement dedicates sufficient funds to help the region with the transition. Though no one can quarrel with the position that the region should seek to get as much money as possible to assist with this costly and difficult process, the reason this adjustment is going to be so costly is because the region will be playing catch-up and trying to do work that should have been accomplished, with or without an EPA.

A better development test, therefore, is whether the EPA will help the region to advance its development goals for the 21<sup>st</sup> century -- does the agreement give sufficient attention not just to protecting the traditional products and existing industries but also to ensuring that new and emerging sectors and players will also have their day in the sun? No government official can imagine or anticipate where the entrepreneurial spirit will take off and in what direction. Their role, however, is to create the business environment that supports rather than impedes that creativity. What if, for example, the region's recent Olympic success prompts development of a viable sports tourism sector?

The agreement has a number of very positive features in this regard. One of its hidden gems is the commitment made by both parties to provide: (i) ongoing monitoring of the operation of the Agreement; and (ii) prompt consultation on issues as they arise. As a result of these consultations, the region's commitments may be modified to respond to:

- difficulties being experienced by an infant industry;
- serious difficulties with the import of a given product to allow modification to the schedule for liberalization;
- difficulties being experienced by an exporter to the EU market to allow changes to the rules that determine how the product qualifies for preferential access;
- serious problems with the availability of or access to foodstuff to allow use of safeguard measures to temporarily restrict imports
- products being sold below their cost of production to allow for an increase in duties on those products (antidumping)

These mechanisms can also be used to identify areas for technical assistance and cooperation. While it will take work to ensure that the appropriate mechanisms operate effectively, they can provide a direct vehicle to policymakers in the EU to raise and seek solutions to the issues being encountered by Caribbean exporters, manufacturers, and consumers.

### **What about the loss in revenue from tariff liberalization?**

Liberalization of imports will result in lost revenue. However, the region committed itself to tread down this path when the countries joined the World Trade Organization (WTO) and its liberalization platform and to liberalize trade within the Caribbean Single Market.

So, it is unfair to single out the EPA for this criticism. At the same time, the phasing in of the tariff reductions take place over five-year interims and have been scheduled to take into account the region's ability to find alternative sources of revenue through improvements to tax collection, implementation of the value-added tax, and other mechanisms.

### **What about that MFN clause?**

The Most-Favored Nation (MFN) clause states that should the region negotiate a trade agreement with another country whose GDP exceeds 1% of world economic trade any more favourable treatment granted to that country must also be extended to the EU. Here is a practical scenario describing this clause in operation.

For example, if the region decides to negotiate a trade agreement with Brazil, one potential area for cooperation collaboration is the development of alternative energy sources, using ethanol made from sugar or some other material. This is an area in which Brazil has made advances, has much to offer the region, and is interested in exporting its technology and expertise. Perhaps in return Brazil wants to get duty-free access for its cars immediately, i.e. before the region is required to grant duty-free access to cars from the EU. When looked at in this context the MFN clause presents a potential stumbling block.

Fortunately, however, the EPA contains an additional provision which allows the region to make its case to prevent the MFN clause from applying. Using the above example, the region could argue that the more preferential treatment being granted to Brazil would promote the use of automobiles that rely on a renewable alternative to fossil-based fuels, thereby promoting more environmentally-friendly growth. The MFN clause is therefore not insurmountable, but challenges the region to think carefully about concessions that it makes to future trade partners.

### **How Does the EPA Affect the Future of US-CARICOM trade relations?**

Because it is difficult to imagine the United States negotiating a trade agreement that comes anywhere near to the types of flexibilities built into the EPA, it is also difficult to imagine the EPA affecting CARICOM's ability to negotiate an FTA with the United States in the near future. As has been argued on these pages before, the U.S. FTA model is quite rigid and previous attempts by other ACP regions to negotiate an FTA have failed.

The way forward for U.S.-CARICOM trade relations lies in the use of more flexible negotiating tools, such as Trade and Investment Framework Agreements (TIFAs) and Memoranda of Understanding (MOUs) with agencies, such as the Departments of Agriculture and Commerce and the Export-Import Bank, to achieve specific and targeted agreements and commitments of technical and financial assistance to address existing bottlenecks in the movement of goods, services and investments. In the existing climate

and the absence of any immediate threats to unilateral trading arrangements, such negotiations represent the best approach for beginning to move US-CARICOM trade relations onto a reciprocal footing.