

EPA NEGOTIATIONS: ISSUES AND OUTCOMES

Presentation to Donors

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CRNM PRESENTATION:

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Presentation Outline

- The Cotonou Mandate
- EPA Negotiation Plan and Schedule
- CARIFORUM Organisation
- Negotiation Objectives
- Issue Areas/Concerns
- Subject-specific Issues and Outcomes
- Overall Evaluation

The Cotonou Partnership Agreement (signed 23 June 2000)

- Broad Objectives (Chap 1, Art. 34) include:
 - *Smooth and gradual integration into the world economy*
 - *Promote sustainable development,*
 - *Contribute to poverty eradication*
 - *States play a full part in international trade*
 - *Cooperation to enhance production, supply and trading capacity, as well as capacity to attract investment*

The Cotonou Partnership

- Principles (Chap 1, Art. 35):
 - *“A true, strengthened and strategic partnership” to promote development, building on previous ACP-EC Conventions*
 - *Trade development measures to promote competitiveness*
 - *Build on regional integration process as a key instrument for integration into world economy*
 - *Take account of different needs and levels of development of ACP countries and regions*
 - *Ensure S&D for all ACP countries and special treatment for LDCs taking due account of the vulnerability of small, landlocked and island countries i.e., asymmetrical commitments*

Cotonou Provisions

- **New Trading Arrangements (Chap 2, Art. 36 & 37)**
 - *Conclude new WTO compatible trading arrangements, removing progressively barriers to trade between them and enhancing cooperation in all areas relevant to trade*
 - *NTAs to be introduced gradually; recognition of need for a preparatory period ending on 31 December 2007 during which non-reciprocal preferences are maintained*
 - *Agree on the need to review commodity protocols*

Cotonou Provisions

- *Negotiations to start September 2002*
- *New trading arrangement to enter into force on 1 January 2008*
- *Regional configurations to be agreed*
- *Caribbean (and other ACP regions) aim to negotiate an EPA*
- *LDCs have EBA option*
- *Non-LDCs could seek alternative to EPA*
- *All-ACP Phase - no negotiations*

CARIFORUM-EC negotiations

- CARIFORUM-EC negotiations launched in Kingston, April 2004
- Plan and Schedule for EPA agreed
- Four negotiating groups
 - *Market Access (Goods)*
 - *Services and Investment*
 - *Trade-related Issues (TRI)*
 - *Legal and Institutional Issues*
- Four Phases
- Three levels of negotiation: Ministerial, Principal Negotiators and Technical

CARIFORUM Organisation

- Training of officials and others
- Regional coordination
 - *TWGs*
 - *Ministerial (COTED and other)*
 - *Heads of Government*
- Consultations: national and sectoral
- Non-official Stakeholders
 - *private sector engagement*
 - *civil society (NGOs, media, trade unions, academia, parliamentarians, etc.)*
- College of Negotiators

Negotiation Objectives

- CARIFORUM objectives include
 - Minimise *negative impact* of liberalisation in all areas, particularly regarding LDCs;
 - Maximise *market access* in goods,
 - Retain *preferences* & minimize preference erosion
 - Improve *services* access, particularly where the Region can benefit in the short term;
 - Encourage *investment* that is environment-friendly

Negotiation Objectives

- Enhance *competitiveness* and *diversification* through innovation
- Protect and stimulate *SMEs*
- Promote *regional integration*, economic cooperation and good governance
- Conclude a *modern trade agreement*
- Keep *subjects manageable* avoiding politically or economically unacceptable ones
- Secure *additional funding* for capacity building, integration support, EPA implementation, etc.

Negotiation Objectives

- EC stated objectives
 - *Foster regional integration conceived as single economic space*
 - *Market building purpose*
 - *Non-commercial ambition*
 - *Reciprocity expected even for LDCs in EPA*
 - *Continued support for CF development priorities*

Issue Areas/Concerns

CARIFORUM issues/concerns

- DR, Haiti and The Bahamas within CARIFORUM and CARICOM constructs
- **Region-to-region agreement;**
 - *CF two-tiered integration reality;*
 - *EC's regional integration ambition exceeds Region's stated ambition*
 - *Single economic space,*
 - *free circulation,*
 - *common institutions*
 - *Parties to EPA;*
- **WTO compatibility** (Market access & Services)

Issue Areas/Concerns

- **Non-reciprocity** and CARICOM LDCs & Haiti
- Dominance of **revenue** concern
- Relationship between concessions granted to the EC and intra-CF concessions: **Regional preference**;
- **MFN** demand re industrialised countries and major developing countries
- ACP solidarity & coordination

Subject-specific Issues and Outcomes

CARIFORUM Market Access Concerns

- *Impacts including:*
 - *Revenue, in particular ODCs;*
 - *Production and employment;*
 - *Rural livelihoods and food security*
- *Agriculture, especially impact of EU subsidies*
- *Size of exclusions list; composition of zero basket; liberalisation period and phases;*
- *Whether common liberalisation/exclusions lists?*
- *Treatment of LDCs*
- *Adequate safeguards*

Subject-specific Issues and Outcomes

Market Access Outcomes

- *Immediate DFQF access to EU market (rice and sugar short delays), except to DOMs*
- *CF liberalises*
 - *52.8% of imports immediately (70% of total trade)*
 - *82.7% in 15 yrs (89.3% of total trade)*
 - *86.9% of imports over 25 years (92% of total trade)*
- *Exclusions list – 493 items (6-digit level) or 13.1% of total imports*
- *3 yr moratorium and 10 yrs for cars and gasoline*
- *Safeguard provision*
- *Treatment of ODCs: maintained over 7 yrs and phased out over next 3 yrs*

Subject-specific Issues and Outcomes

- *Agriculture*
 - Zero for zero on export subsidies;
 - CF exports excluded from use of multilateral safeguards
 - Sugar: Protocol until Sept 2009 but increased quotas; DFQF afterwards
 - Rice: two years for DFQF during which tariff removed immediately and quota increases annually
 - Bananas: DFQF
 - However, no 'special safeguard' for Agriculture

Subject-specific Issues and Outcomes

- Services and Investment Outcomes
 - *Comprehensive rules for tourism, telecom, courier, financial and maritime transport*
 - *Tourism: large firms prevented from anti-competitive behaviour*
 - *Provisions for cooperation and mutual recognition of qualifications, as well as technical assistance*
 - *Special provisions for **Short-Term Visitors For Business Purposes** in research and design, marketing, training, trade fairs, sales, purchasing and tourism*
 - *Provisions for EU development assistance in developing regulatory regimes, building the capacity of regional services firms, market intelligence, interaction with EU firms, among other activities*

Subject-specific Issues and Outcomes

- *CF commitments*
 - LDCs liberalise in 65% and MDCs 75% sectors but much variation in individual states' commitments
 - Standstill clause and future liberalisation commitment
 - Bahamas and Haiti have six months to present offer
- *EC commitments*
 - Liberalise more than 90% of W120 list used as basis for WTO liberalisation (audiovisual excluded, along with areas of education, public health, energy)
 - Commitments begin when agreement applied, for all EC states except new members, which start in 2011, and Bulgaria and Rumania in 2014.

Subject-specific Issues and Outcomes

- Service investments (Mode 3): EC liberalise almost all sectors
- Mode 4:
 - **Contractual Service Suppliers:** EC grants market access for Caribbean professionals in 29 sectors for employees of Caribbean firms once they get a contract for up to 90 days in a calendar year
 - **Independent Professionals or self employed persons:** eleven sectors liberalised without quotas or economic ceilings (EU does not have such commitments in other agreements), but with ENTs
- Entertainment Services
 - 25 European states will liberalize the whole sub-sector of Entertainment services (CPC 9619), with some limitations by a few states
 - CF did not make offers in entertainment

Subject-specific Issues and Outcomes

- **Protocol on Cultural Cooperation**
 - Greater cooperation on all cultural fronts and with special provisions on audiovisual
 - Co-produced audiovisual products and services involving European and Caribbean creative teams will qualify as domestic productions and meet the audiovisual content rules in all EU states and in the Caribbean
 - Caribbean audiovisual producers to access funding for creative projects
 - Artists and other cultural practitioners (who are not involved in commercial activities in the EU) will be able to enter the EU space to collaborate on projects, get training, etc.

Subject-specific Issues and Outcomes

Trade-related issues

Competition;

Innovation and IPR;

Public Procurement;

Environment;

Social Aspects;

Protection of Personal Data

Together they send a powerful signal of commitment to trade-related development

- *Competition*

- Proscribes collusion and abuse of dominant position on both sides, ensuring consumers enjoy liberalisation benefit
- CF commitment to enact enabling legislation within 5 years
- Links CSME commitments to provisions on development cooperation

Subject-specific Issues and Outcomes

- *Innovation and Intellectual Property*
 - Global Objective: improve CF competitiveness through the development of CF innovation systems in partnership with the EU and through access to relevant EU support programs
 - Specific cooperation areas identified include science and technology, eco-innovation and renewable energy, and ICTs
 - Support for IP development, including GIs and protection of traditional knowledge, its legal systems and enforcement
 - Support for the creative industry, particularly entertainment, through protection of content in the digital environment and the tightening of existing measures for intervention and deterring rights infringement

Subject-specific Issues and Outcomes

- Public Procurement
 - No commitments on market access
 - Focus on transparency rules to strengthen good governance initiatives
- Environment
 - A framework within the Partnership that facilitates the development of trade in a manner that promotes environmental protection and preservation
 - Chapter s mainly best endeavour and allows parties the right to regulate

Subject-specific Issues and Outcomes

- *Social Aspects*
 - Reaffirmation of existing CF commitments, specifically to core ILO labour standards
 - Labour standards not be used for protectionist purposes
 - Majority of chapter is best endeavour
- *Personal Data Protection*
 - Establish PDP regimes within 7 years based on OECD principles
 - Rules bolster investor confidence new generation services based on data transfer, including outsourcing

Overall Evaluation

- Achievements
 - *Adequate technical preparation and stakeholder consultation*
 - *The Region has kept together: Intra-regional coordination a major challenge*
 - *Negotiators did a good job: they could do nothing without MS approval; mandates often inflexible*
 - *CF completed a full EPA – the only region so far - and within mandated timeframe*
 - *Objectives achieved (subject-wise, balance, asymmetry and most of all developmental)*

Overall Evaluation

- *Precedents for the Region and for negotiations:*
 - Subject comprehensiveness
 - Reciprocity
 - 25 years phasing of liberalisation
 - Inclusion of moratorium
 - Treatment of ODCs
 - Best EU Services offer; the inclusion of entertainment; address tourism concerns

Overall Evaluation

- *Precedents (continued):*
 - Treatment of Innovation
 - Transparency without market access in GP
 - Treatment of development
- *High cost of no-EPA avoided: GSP and MFN*
- *Influence on future negotiations*

Overall Evaluation

- Shortcomings
 - *Insufficient consultation with certain categories of stakeholders*
 - *Generally weak stakeholder responsiveness to queries*
 - *Insufficient information dissemination*
 - *Member states not doing their homework occasioning delays in the coordination process*
 - *Insufficient inter-ministerial coordination at national level*

What lies ahead?

- *Public relations aspect: private sector, civil society reactions*
- *Signature, provisional application and ratification, entry into force*
- *Implementation challenges*
- *Economic reform agendas*
- *EC to deliver on commitments (effective and timely aid delivery)*
- *Monitoring of implementation and impact*

Some questions

- *Will the private sector seize opportunities?*
- *Will governments use the security of EPA aggressively to attract investment?*
- *Will EPA be used to further regional integration?*
- *Will governments implement it in a timely way?*
- *Will governments undertake necessary reforms?*
- *Will EC funding be forthcoming on a timely basis?*
- *Will the EPA reduce poverty?*

The End

MANY THANKS