

HIGHLIGHTS RE SERVICES AND INVESTMENT IN THE CARIFORUM-EU ECONOMIC PARTNERSHIP AGREEMENT (EPA)

RULES ON SERVICES AND INVESTMENT IN THE EPA

The EPA contains a comprehensive section on Investment and Services as well as common rules on E-commerce. It provides a special concession for the Bahamas and Haiti to join the Agreement but they must submit their commitments on investment and services within six months.

The rules on **investment** will give predictability and transparency to the conditions of market access in manufacturing, mining, agriculture and forestry, and service sectors in European and Cariforum states. In the European Union (EU), Cariforum investors will get national treatment and most favoured nation treatment and vice versa. Both regions have liberalized most areas of manufacturing except for some sensitive areas in Cariforum. However, public services and utilities and other sensitive sectors have not been opened to foreign participation. And Cariforum has maintained special reservations for small and medium enterprises in some sectors. The EU also has excluded a few sectors and maintains reservations in some sectors for some of its newer member states.

The EPA also contains obligations that will ensure that investors safeguard the Environment and maintain high Labour and Occupational Health and Safety standards. Furthermore, it forbids investors from engaging in corruption to get special concessions from public officials.

In the case of **Services**, there are comprehensive rules in the EPA for the tourism sector as well as the following areas: E-commerce; courier; telecommunications; financial services; and maritime transport. In the case of tourism, large firms will be prevented from behaving in an anti-competitive manner in order to safeguard the interests of the mainly small firms in the Caribbean. There are also provisions for cooperation and mutual recognition of qualifications as well as technical assistance for the tourism sector.

The EPA also has special provisions for Short Term Visitors for Business Purposes in the following areas: research and design, marketing, training, trade fairs, sales, purchasing and tourism.

Finally, the Services and Investment Title provides for development cooperation from the EU to address a range of needs in the Caribbean such as developing regulatory regimes, building the capacity of regional services firms, market intelligence, interaction with EU firms, among other activities.

SERVICE SECTORS LIBERALIZED BY THE EU

The EU has opened more than 90 percent of the sectors in the W120 list used as the basis for negotiations under the GATS in the WTO. These range from Business services, Communications, Construction, Distribution, Environmental, Financial, Transport, Tourism and

Recreation services. The commitments will start when the EPA enters into force for all EU states except the new members, (Eastern and Central European states) whose commitments will start in 2011, and Bulgaria and Romania in 2014. In the case of investment (Mode 3) the EC has liberalized almost all sectors for Cariforum firms in the European Union with only some exclusions in a few sectors and limitations in mainly the new EU member states. In other modes of supply there has been great progress as well. In Mode 1 (cross border trade) the EC has liberalized the vast majority of sectors. The same applies to Mode 2 (consumption abroad).

In the case of the temporary movement of natural persons (Mode 4) the EC has granted market access for Caribbean professionals in 29 sectors for employees of Caribbean firms (Contractual Service Suppliers - CSS) to be able to enter the EU to supply services once they get a contract. These are subject to conditions stipulated in the Services chapter of the EPA but the stays are for up to **six months** in a calendar year. As well, the EU has liberalized 11 sectors for temporary entry by Independent Professionals (IPs) or self employed persons. Although there are some conditions (economic needs tests) in some states, there are no quotas on the amount of service suppliers that can enter the EU market. This is a very important concession by the EC to Cariforum **since in the WTO and in other bilateral FTAs the EU does not have market access commitments of this kind for temporary entry.**

In the case of Entertainment services, a sector in which the Caribbean is quite competitive, 25 European states will liberalize Entertainment services (CPC 9619) with some limitations in two states. This level of market access for entertainment **is a first for any trade agreement of the EU** and potentially a very big area for the Caribbean region. In the WTO only two EU states have commitments for contractual service suppliers in entertainment services; and in the EU-Chile Trade Agreement only four states do. In the EPA, the activities that are being liberalized include the whole range of artists and cultural practitioners in music, dance, theatre, visual arts, as well as sculptors, authors, poets, among others. The EC offer is subject to some controls and conditions but there are no quotas or limits on the number of natural person who can enter under this commitment. Caribbean artists, musicians, and other cultural practitioners and their crews who are registered under businesses will be able to send their members or employees to almost all EU states to supply entertainment services.

The market access granted by the EU in Entertainment is complemented with a historic and innovative **Protocol on Cultural Cooperation** which provides for greater cooperation on all cultural fronts and with special provisions on audiovisual. In particular, co-produced audiovisual products and 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 or regions, it will also make it possible for Caribbean audiovisual producers to access funding for creative projects. Furthermore, through the Protocol, artists and other cultural practitioners (who are not involved in commercial activities in the EU) will be able to enter European states to collaborate on projects, upgrade their training, etc. And they will be allowed to stay in the EU for periods up to 90 days in any 12-month period. Previous EU trade agreements had almost nothing on cultural cooperation. The Cariforum-EC EPA is the first to have comprehensive provisions that allow for movement of artists, musicians, and other cultural practitioners who can develop contacts that can eventually lead to commercial contracts.

It is also important to note that all the market access commitments on services in the EPA are covered by the dispute settlement provisions; so if Caribbean traders or investors or business persons find officials in individual EC states renegeing on their commitments or making it too difficult for them to enter their jurisdiction, this can be challenged.

SERVICE SECTORS LIBERALIZED BY CARIFORUM

In terms of the level of liberalization by Cariforum compared to the EC, there is clear asymmetry as expected. The EC opened more than 90 percent of service sectors. In the case of Cariforum, the sectoral coverage is between 65 and 75 percent; but the Dominican Republic's market opening in services is more than 90 percent. The sectors that were liberalized by Cariforum states include those that have positive development impacts and in which Member States are seeking investment or new technologies as well as sectors that are important to create economic opportunities in outsourcing contracts from European firms. To a large extent, most countries liberalized cross-border trade and investment. However, there is quite limited temporary entry (Mode 4) coverage for contractual service suppliers and independent professionals.

The main sectors that most Cariforum states have liberalized in the EPA are: Business services (accounting, architecture, engineering, etc); computer and related; research and development; environmental services; management consultancy; maritime transport; entertainment; tourism; among others. Some of the commitments will be phased-in over time in some member states to address sensitivities at the national level. The services that Cariforum have opened should lead to increased investment in the region in order to develop new service industries. As well, market entry can result in greater efficiencies in a range of services that are inputs to manufacturing and other services. It is expected that there will be increased trade in the short term in business services if regional firms position themselves to take advantage of outsourcing opportunities from European firms.