

EPA BRIEF ON TRADE RELATED ISSUES

The negotiated commitments in Title IV of the CARIFORUM-EC EPA (EPA), “Trade Related Issues” are intended to complement and support the fundamental development-oriented paradigm of the EPA, and include the following subjects:

- Chapter 1: Competition
- Chapter 2: Innovation and Intellectual Property
- Chapter 3: Public Procurement
- Chapter 4: Environment
- Chapter 5: Social Aspects
- Chapter 6: Protection of Personal Data. They include It does so by

Taken together, these Chapters send a powerful positive signal, to both potential investors and development partners, of the Region’s commitment to trade-related development.

Chapter 1: Competition

The Competition Chapter supports fair competition by proscribing two of the most common forms of anti-competitive behaviour. Article 2, in so far as they may affect trade between the EC and CARIFORUM, proscribes:

“(a) agreements and concerted practices between undertakings, which have the object or effect of preventing or substantially lessening competition in the territory of the EC Party or of the CARIFORUM States as a whole or in a substantial part thereof;

(b) abuse by one or more undertakings of market power in the territory of the EC Party or of the CARIFORUM States as a whole or in a substantial part thereof.”

The CARIFORUM States have also committed to ensuring the enactment of enabling legislation addressing the foregoing within 5 years of the coming into force of the EPA.

For the CARIFORUM Region, the provisions of the EPA Chapter help to ensure that the benefits of trade liberalization, e.g., lower cost to consumers as a result of lower tariffs, are not marginalized and/or eliminated owing to the anti-competitive behaviour of firms which might wish to engage in market partitioning, or other abuse of dominant positions.

For CSME States in particular, the Chapter re-affirms obligations which they have adopted in the Revised Treaty of Chaguaramas to implement measures proscribing the most common forms of anti-competitive behaviour. Further, by linking the implementation of these obligations to the provision of development cooperation, the EPA Chapter facilitates ongoing Regional Integration initiatives within the Community in this subject.

Chapter 2: Innovation and Intellectual Property

The global objectives of this Chapter are to improve CARIFORUM competitiveness through the development of CARIFORUM innovation systems in partnership with the EU and through access to relevant EU support programs. Examples of such support programmes are the Competitiveness and Innovation Framework Programme (CIP) and the Framework Programme for research and technological development, currently FP7.

Specific cooperation areas identified include eco-innovation and renewable energy, and information and communication technologies. Support is also to be provided for the development of CARIFORUM intellectual property, including the development of geographical indications and the protection of traditional knowledge, its relevant legal systems and its enforcement institutions, without restricting existing flexibilities, particularly those required to address public health.

The key benefits are:

1. Recognition of (a) a relationship between creativity, innovation, competitiveness, levels of development and the protection of intellectual property rights; and (b) the neighbouring status of CARIFORUM with the EU through relevant outermost regions.
2. Facilitation and promotion of CARIFORUM participation in existing and future framework programs, specific programs and other activities. Examples of this include, but are not limited to, the EU's CIP and FP7.
3. Agreement on the facilitation of and support for cooperation in the development of competitiveness and innovation; science and technology; eco-innovation and renewable energy; and information and communication technologies.
4. Agreement on the facilitation of and support for the development of intellectual property, including the development of geographical indications and the protection of traditional knowledge, its relevant legal systems and its enforcement institutions, without restricting existing flexibilities, particularly those required to address public health.
5. Support for the creative industry, particularly the entertainment industry, through protection of content in the digital environment in accordance with treaties negotiated multilaterally, and the tightening of existing measures for intervention to prevent and deter the ongoing infringement of their rights.

Chapter 3: Public Procurement

The negotiated commitments in the Public Procurement Chapter of the EPA do not grant rights of access, by any Party or Signatory CARIFORUM State, to the public procurement market of any other Party or Signatory

CARIFORUM State. The Chapter focuses on transparency rules that will serve to strengthen good governance initiatives, and offer a strong tool to assist governments in their efforts to fight corruption and to ensure the proficient utilization of increasingly scarce resources. The principal benefits of the negotiated rules of this Chapter will be realized at the National levels, where transparency operates as a tool that allows governments to guarantee knowledge of the facts for the purposes of verification and administrative control in the efforts to achieve value for money in their procurement activities. Further, transparency in a procurement process is important to both the bidder and the government. Bidders will only be prepared to act as honest brokers if they have confidence in the procurement procedure, and the transparency of governmental action is a necessary requirement to engender that confidence.

Chapter 4: Environment

The purpose of this Chapter is to provide a framework within the Partnership that facilitates the development of trade between the Parties in a manner that promotes environmental protection and preservation. The express right of the Parties to regulate in accordance with their own sustainable development priorities is recognized, provided that such regulation does not constitute arbitrary or unjustifiable restrictions on trade between the Parties. The majority of the Chapter is best endeavour in nature, allowing CARIFORUM States to enact and implement measures in accordance with their own needs.

Chapter 5: Social Aspects

Chapter 5 is, in essence, a re-affirmation of existing commitments of CARIFORUM States, specifically a commitment to the core labour standards as defined by the ILO. One important aspect of this Chapter is the commitment that labour standards not be used for protectionist trade purposes. This will help to ensure that trade practices do not undermine social and socio-economic objectives. The express right of the Parties to regulate in accordance with their own social development priorities is recognized, provided that such regulation encourages high levels of social and labour standards consistent with the core rights and standards identified by the ILO. The majority of the Chapter is best endeavour in nature, allowing CARIFORUM States to enact and implement measures in accordance with their own needs.

Chapter 6: Protection of Personal Data

CARIFORUM States have committed to establishing Personal Data Protection regimes, based on the principles promulgated by the OECD, with in seven years after the entry into force of the EPA. Several CARIFORUM States, including Trinidad and Tobago, the

Bahamas, Barbados and St. Kitts and Nevis, recognizing the potential commercial benefits of such a regime, are already in various stages of implementing national data protection regimes.

The rules on the protection of personal data as reflected in Chapter 6 will serve to bolster investor confidence in commercial interests that involve the transfer and/or processing of personal data. This, in turn, can facilitate the Region's thrust into new generation services based on data transfer, including new business models created by outsourcing (referred to as off-shoring when the supplier is located in another country/jurisdiction), allowing multinational companies to concentrate on core products in one country, while other market players provide support services in another country. The types of activities generally outsourced in this manner include call center activities, various financial services, human resource functions, billing functions, etc. This is a fast-growing niche market which, with targeted marketing strategies highlighting the caliber of the Region's labour force, high literacy levels, full technological inter-connectivity, inter alia, has the potential to make significant contribution to the further growth and development of the Region.

Development Cooperation

All of the Trade Related Chapters noted above, include development cooperation commitments, obliging the EC and CARIFORUM States to work together to establish and implement the frameworks (legal, institutional and/or normative) primarily in the CARIFORUM States necessary facilitate compliance with commitments. As a first step towards initializing these commitments, the European Commission and the CARIFORUM Secretariat undertook to jointly carry out needs-assessment studies in the CARIFORUM States. The objective of these studies are to: (i) identify needs at the national, CSME and CARIFORUM levels that must be addressed in order to operationalize the relevant EPA commitments; and (ii) develop comprehensive and prioritized programmes of activities along with financing proposals in respect of the identified needs. The studies are at various stages of implementation. Some have been completed and approved by the relevant authorities on both Sides, some are currently being undertaken, and others are awaiting completion of the consultant selection and engagement process.