

## **CARIFORUM-EU ECONOMIC PARTNERSHIP AGREEMENT NEGOTIATIONS: WHY AND HOW**

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### **Introduction**

After four years of negotiations and nine months of review by the governments of the Caribbean Forum of African, Caribbean and Pacific (ACP) states, collectively known as CARIFORUM countries;<sup>1</sup> CARIFORUM-EU Economic Partnership Agreement (EPA) was signed on October 15, 2008, in Bridgetown, Barbados by all countries except Haiti and Guyana. A week later Guyana signed the EPA in the privacy of its embassy in Brussels. This was a culmination of an enigmatic campaign, which failed to reopen the negotiations. Haiti, because of persistent political and

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<sup>1</sup> Fifteen Caribbean countries are: Antigua & Barbuda, The Bahamas, Barbados, Belize, Dominica, the Dominican Republic, Grenada, Guyana, Haiti, Jamaica, St. Kitts & Nevis, St. Lucia, St. Vincent & the Grenadines, Suriname, and Trinidad & Tobago.

economic difficulties was unable to resolve issues relating to services and investment in time to sign.

This paper consists of three parts. Part I outlines the reasons why CARIFORUM engaged in negotiations for an EPA with the European Union (EU). How the negotiations were conducted is explained in Part II and Part III treat briefly with three issues, which emanate from the discussions in Parts I and II.

## **WHY THE EPA?**

### **Importance Of Trade Agreements**

Small developing countries have highly open economies, which mean that international trade is extremely important to the operation of the economy. Exports constitute a very large share of total production and the import content of every good and service is substantial.

The objective of trade agreements is to increase economic growth by the expansion of trade and capital flows. The objective of negotiating trade agreements for developing countries, such as those in the Caribbean, is to promote economic development. The impact of international trade on growth depends in large part on the terms and conditions, which govern the conduct of trade. One means of influencing the conditions of involvement in the global economy is the negotiation of trade agreements at the multilateral and regional levels.

Nearly all countries, developed and developing are competing with each other to get the best access to the markets of as many countries as possible. If the CARIFORUM region does not conclude trade agreements it will be at a disadvantage because the region's exports will face higher tariffs than those from countries that have trade liberalizing agreements. Similarly trade agreements involve lower tariffs on imports from the partners to the agreement and therefore lower cost of goods to the domestic consumer. This disadvantage will increase if the region does not sign trade agreements while other countries do.

It has become increasingly difficult to persuade developed countries to grant preferential trade arrangements such as the former Lomé Conventions with Europe and the current Caribbean Basin Initiative (CBI) and CARIBCAN, with the United States and Canada respectively. Owing to

concerns about and awareness of the need for WTO compatibility, the developed countries that dominate international affairs are pushing for free trade agreements that are based on reciprocity. The demand for reciprocity has therefore become a defining feature of the new age trade negotiations in which these States are involved. CARIFORUM countries want the best possible access to the EU market for goods and services and therefore sought to enshrine this in a trade agreement.

### **Why Negotiate An EPA With The EU?**

The decision to negotiate an EPA and to negotiate as six separate regions was entered into voluntarily by the governments of CARIFORUM when they signed the Cotonou Agreement with the EU in 2000. The reasons for agreeing to dismember the long standing unity of the ACP Group is beyond the scope of this paper but requires a public explanation by those who advised CARIFORUM and by those who led those negotiations.

The preferential trade provisions which were provided by successive Lomé Conventions was replaced by the Cotonou Agreement which provides a transitional arrangement in which the trade provisions were scheduled to end on December 31, 2007. These trade provisions had to be replaced by a World Trade Organization (WTO) compatible trade agreement and this was to be the EPA.

The Region wanted a trade agreement with the EU because it is a major economic bloc, which has traditionally been a significant trade partner. The EU has been a critically important export market and source of essential imports. The EU has the potential to be a major source of foreign investment and a continuing source of development assistance. Indeed, one of the attractive aspects of the EPA is the EU's pledged to furnish development aid to assist with the costs of adjustment and implementation.

CARICOM countries need to avoid having less favourable market access than other developing countries from Africa and the Pacific that produce and export similar products such as sugar and bananas. The least developed countries of Africa already had duty free, quota free access and therefore would be in more advantageous position if there was no EPA agreement between the CARIFORUM region and the EU.

The EPA was a priority because alternative agreements with other major trade partners were not an option at that time. (a) The US did not have

Trade Promotion Authority to negotiate trade agreements and in any case they had indicated unequivocally that any trade agreement would have to be a free trade agreement. The Central Americas Free Trade Agreement (CAFTA) was the almost immutable template. (b) Negotiations with Canada were anticipated to have started in earnest early in 2008. (c) The negotiations in the WTO designated the Doha Development Agenda with the intention of addressing the issues of concern to the developing countries that had been stalled for some time. The WTO negotiations had degenerated into a political quagmire because of the failure of the developed countries to compromise on key issues in particular subsidies and domestic support in agriculture.

The political circumstances that allowed the preferential arrangements, which were the core of the Lomé Conventions and the Cotonou Agreement had changed dramatically as was graphically illustrated by the erosion of the EU sugar and banana regimes at the behest of developing country members of the WTO. Therefore, achieving the EPA was fundamental to CARIFORUM interests of repositioning these economies in a new global context. In light of these considerations, CARIFORUM Member States, since inception of the EPA negotiation process some five years ago, have been systematically engaged in a calculated exercise to capitalize on this opportunity to evolve a new trading relationship with Europe to promote the sustainable development of CARIFORUM including the strengthening of regional integration.

### **How The EPA Differs From Past Agreements?**

The EPA has to be WTO compatible, which means that it must be in conformity with the rules of the WTO. Specifically this means moving towards reciprocity in a reasonable time frame (usually most of the liberalization must be accomplished in 10-16 years). The negotiators for CARIFORUM succeeded in preserving preferences as long as possible and to carefully calibrate tariff liberalization to the capacity to adjust. The adjustment can be as long as 25 years in some instances and involve a set of moratoriums.

The EPA introduces a new model of development promoting trade. The model inherent in the former trade arrangements was preferential market access for CARICOM in the form of guaranteed quotas and prices above those prevailing in the world market. These arrangements are replaced by a





model, which provides opportunities but not guarantees. This is the reality and it is a challenge, but one that the Region is capable of meeting. Through a process of strategic global repositioning, CARICOM countries could transform these opportunities into exports of goods and services and that in turn can stimulate domestic and foreign investment.

The nature of the interaction with the EU has also changed. The task was no longer how to persuade the Europeans to exercise a disposition to provide preferential trade benefits and to provide this in the form of stable export regimes such as the Sugar Protocol. The new engagement was more challenging and arduous because it was a negotiation in which there had to be give and take. The EU had an agenda of interests, which it sought vigorously to attain. Gains for CARIFORUM had to be achieved by outstanding negotiations at the technical level and skillful diplomacy.

There is differential treatment for the less developed partner, namely CARIFORUM. Differential treatment is expressed in (a) asymmetrical timeframes for liberalization, for example, the EU will provide duty free, quota free market access immediately the EPA comes into effect. CARIFORUM will phase its import liberalization over periods extending as long as 25 years. The obligations assumed by the EU and CARIFORUM differ in several subject areas in a manner designed to favour the developing country partner. Asymmetries are not intended to be utilized for the deferment of adjustment but to allow adequate adjustment time and policy space to facilitate the enhancement of international competitiveness and the diversification and creation of exports.

The EPA like any agreement, which liberalizes trade, creates opportunities, which can only be brought to fruition by investment. The sources of private investment induced by the trade agreement will be both foreign and domestic. These investment flows will be more productive if accompanied by adequate and appropriate public sector investment. In recognition of the complementary role of public sector resources, the EPA will be accompanied by development assistance from the EU. Trade agreements are not usually linked to development support although the coexistence of trade and aid has been a tradition between the EU and the African, Caribbean and Pacific (ACP) countries.

### **Schedule Of Negotiations**

Recent commentary in the media has given the misleading impression that CARIFORUM (CF) countries were being forced by the European Union (EU) to conclude an Economic Partnership Agreement (EPA) by the end of 2007. This type of commentary implies that this EU demand put the Region's negotiators at a disadvantage and suggests that a more prudent course of action would have been to extend the duration of the negotiations. Its most extreme exposition takes the form of the sound bite: "no agreement is better than a bad agreement". This is simply incorrect and is a disservice to the negotiating structure the apex of which was CARIFORUM Heads of Government. The mandate to the negotiators repeatedly reiterated by the Ministers and Heads of Governments was to finish the negotiations on the schedule, mutually designed and agreed to by the CF and the EU. The rationale of these instructions was that the Region would be worse off without an EPA in place on January 1, 2008 and completion at a later date would put the region in a disadvantageous position.

### **Rationale For Completing Negotiations On Schedule**

The negotiations of an Economic Partnership Agreement (EPA) with the European Union (EU) are, according to the terms of the Cotonou Agreement and the Plan and Schedule adopted by CARIFORUM, due to be completed in time for the entry into force of the Agreement on January 1, 2008. <sup>1</sup>

The GATT Article 1 waiver, which allows for the grant of non-reciprocal preference by the EU to the African, Caribbean and Pacific Group (ACP), was due to expire on December 31, 2007.

If an EPA was not in place by the 1<sup>st</sup> January 2008 CARIFORUM countries would have had to conduct trade on the basis of the EU's GSP regime, which is less advantageous because its product coverage does not include several important CF exports and several important exports would have incurred tariffs. Completing the negotiations on schedule allowed the Region to avoid operating under the Generalized System of Preferences (GSP) scheme.

The possibility of extending the duration of the negotiations had been



suggested however, the WTO waiver, which permitted access to the preferential provisions of the Cotonou, was to expire on December 31, 2007. At the end of 2007 it would not have been possible to activate a temporary extension of a WTO waiver for a trade regime that had ceased to exist. To extend market access to the trade provisions of the Cotonou Agreement, the ACP and the EU would have had to agree to the establishment of a new Protocol to resuscitate the trade regime before a new waiver could be sought. Reaching such an agreement would take some time to achieve and it would be difficult to secure passage except on the basis of reciprocity.

Even if all this was implemented, successfully attaining the waiver would be improbable in an international political environment, where other countries, including non-ACP developing countries continually seek to 'level' the playing field by dismantling preferential trade arrangements. Mobilising adequate international support for another waiver was highly unlikely.

The EU had indicated that countries could sign a less than full EPA and complete the negotiations on a more extended schedule after January 1, 2008. However, this option was only available to those regions, which had concluded an agreement on market access for goods (industrial and agriculture). Ironically the market access negotiations proved to be the most difficult to complete. In the case of CARIFORUM-EU negotiations, the other subject areas were largely settled before some of the more contentious aspects of market access. Therefore these options did not provide a feasible alternative to completing the negotiations on schedule.

### **Car forum's Unique Situation**

While these realities are common to all ACP States alike, the consequences of not having an EPA in place by the end of 2007 are not the same for all ACP States. For the CARIFORUM States, the failure to conclude the EPA negotiations in 2007, would have inevitably led to the implementation of the EU Generalised System of Preferences (GSP) in 2008. In contrast, in the absence of an EPA, African States, most of which are classified as Least Developed Countries (Laces), continue to benefit from and have non-reciprocal preferential access for goods to the European market under the EU GSP system. From the African perspective, while this level of access may not be considered ideal it could be regarded as satisfactory until an EPA is

established. In CAR Forum's case, given that the only country officially classified as an LDC is Haiti, the other countries faced no such acceptable alternative under the GSP system. Therefore, for CARIFORUM in particular, the necessity of meeting the deadline for the completion of the EPA was voluntary and pragmatic and was not based upon a response that emanated from pressure from the EU.

Where there was an advantage to be gained, CARIFORUM negotiators at the technical and political levels collaborated with the African, and Pacific group of countries. The CRNM shared information and technical work with technicians in the ACP countries. This experience has revealed areas of common interests and areas of divergences and no amount of diplomacy or romantic allusions to the past will change that fact there are differences rooted in our respective objective realities.

#### **Dangers Of Delaying Completion Of EPA Negotiations**

An expiry of the waiver would have left the ACP preferential access arrangements unprotected in the WTO and vulnerable to challenge. Such an eventuality would mean that the Region's key commodity exports to EU namely, sugar, bananas and rice could suffer even greater damage than has already been the case. It would be almost impossible for the EU to accommodate the Cotonou-type preferences under its GSP for the simple reason that, under the WTO rules that make the GSP possible, all developing countries must, by and large, be treated equally.

The EU's GSP would have had two effects on the exports of the CARIFORUM countries. First, a range of products that can be exported by the ACP under the Cotonou arrangements at various levels of tariff preference, are excluded altogether. These include, sugar, bananas, beef/veal, products, citrus, brown rice, aluminium oxide (alumina) and aluminium. Second, other CARIFORUM products that would attract a tariff whereas ACP exports enter duty free. Among the products in this category are fish, crustaceans and mollusks; ornamentals, vegetables, various tropical fruits (including mangoes, guavas and avocados), palm oil, various cocoa products including chocolates, tobacco products, plywood and similar materials, a range of garments, and electronic parts for TVs, cameras and so on.

The impact of an expiry of the Cotonou waiver was taken seriously. It cannot be compared with the expiry of the CBI waiver, the absence of which has not (yet) resulted in any adverse consequences. The thinking at the time was based on the view that the CBI arrangements had not been the target of legal challenges as was the case with the EU banana regime and to some extent sugar. There was a conviction in both the EU and CARIFORUM camps that the Latin American banana exporting countries could be expected to challenge the entire set of ACP arrangements when the waiver expired. This would be harmful to the EU and CARIFORUM countries. There was a calculation by CARIFORUM that if there was a slippage in concluding the EPA of a few months, this may not materially affect the dynamics of the situation. If, however, the delay were to stretch beyond a short period, then the probability of a challenge would have increased.

Experience at the WTO Ministerial meeting in Doha, shows that requests for waivers are likely to be attained only by concessions made to other WTO members. In the case of the Cotonou waiver, the EU was forced to give Thailand and the Philippines an additional quota and a 50% reduction in the Most Favoured Nation (MFN) duty of loin tuna. In addition, the EU had to give commitments on the further liberalization of its banana regime in a way that committed it to returning to dispute settlement in the event that a regime satisfactory to the MFN countries was not put in place by 2006. If another waiver were to be requested, it was not clear what conditionalities would have been attached during the WTO deliberations and how adversely these could impact on CARIFORUM. Other countries, it was felt, would use the occasion to secure agreement on issues of importance to them but unrelated to the waiver. The Latin American banana exporting countries would certainly have leveraged the situation to try to lower tariffs on their bananas entering the EU.

It has been suggested that none of the adverse consequences, which would have befallen CARIFORUM, would have actually materialized if all the ACP regions decided to delay the completion of the negotiations beyond December 31, 2007. This specious argument was based on the premise that there was a sufficiently strong commonality of interests that the ACP group would operate in concert as in the halcyon days of the Lomé negotiations. This was not so because of the different circumstances of CARIFORUM and the other ACP regions. Although other ACP regions lagged far behind in the EPA negotiations, their objective circumstances differ markedly from those

of CARIFORUM, in particular due to the fact that, the other regions consisted mostly of Least Developed Countries (LDCs) therefore, they already had the duty-free/quota free provisions of the EU's Everything but Arms Initiative (EBA). The EBA provisions had security of tenure because they were not subject to the requirement of a WTO waiver. Going beyond the delay would have seriously injured CARIFORUM countries while having no adverse consequences for the vast majority of the other ACP states.

### **Being The First Region To Complete An EPA**

It was no secret that most other ACP regions were much further behind in their negotiations than CARIFORUM and were not likely to complete the EPA negotiations by the stipulated deadline. The question has been posed: What advantage would CARIFORUM gain by maintaining the political commitment to complete the negotiations within the agreed schedule? Some have even suggested that finishing before the other ACP regions would be a disadvantageous because the EU could subsequently offer greater concessions to other regions. The MFN clause in the EPA binds the EU to provide to CARIFORUM any better terms subsequently included in EPAs with other ACP countries.

The objective circumstances of the other ACP regions differ significantly from those of the Caribbean. The major difference lies in the fact that while CARIFORUM is composed essentially of non-LDCs (Haiti being the only exception), most of the other regions are dominated by LDCs. In their relations with the EU, LDCs have the advantage of being beneficiaries of the Everything but Arms (EBA) initiative by which the EU offers them full duty free and quota free access on a non-reciprocal basis. This arrangement is not subject to a waiver since it is covered by the WTO's "Enabling Clause", the very provision that houses the GSP, and which allows for further discrimination in favour of LDCs.

The EC was clearly very interested in concluding an agreement, which could then be used as a model for other regions. The successful conclusion of at least one of the economic partnership agreements within the stipulated timeframe was regarded as being of immense benefit to the EU's public profile. The EU had not recorded any success in trade negotiation success at either the multilateral or bilateral level and this was one of its

strong motivations for investing so much political capital in the EPA process. The Caribbean, rather than being in a position of weakness, as some commentators have opined, was in a position to capitalize on anxiety of the EU to attain certain gains and concessions.

Indeed, CARIFORUM extracted some significant concessions from the negotiations and in the process, forced the EU to back down from some of its earlier positions. For example, the EPA provides the region with a timeframe for tariff liberalization of 25 years, a concession unprecedented in any trade agreement. The agreement also provides for the provision by the EU of specific provisions on development support in the text of the agreement. Perhaps one of the most significant negotiating accomplishments for the regions, was its success in getting the EC to resile from its initial insistence that CARIFORUM should form a customs union and should embrace disciplines on tax governance.

The Caribbean region can rightly claim that in its dealings on the international stage, it has adhered to its stated commitment to engage and has bargained in good faith. The value of this should not be underestimated because relations with the EU are not confined to trade and development cooperation but embraces a raft of economic, political and security issues. The historical friendship and contemporary links with individual EU member states have continued to prove valuable in advancing the region's interests in the international arena.

CARIFORUM, due to the seriousness of application that it displayed in the negotiations and its demonstrated commitment to making every effort to adhere to agreed deadlines, enhanced its profile as a serious partner. The sense of purpose evinced by both Parties created an atmosphere, which was conducive to constructive dialogue and to hard bargaining. While such a rapport was at times lacking at the political level, the principal negotiators worked assiduously to establish and maintain a process of interaction, which facilitated continuous communications. This created a culture of trust and openness, which set the tone for the conduct of the technical negotiators. This mode of engagement together with the quality of the technical preparation contributed to the timely execution of the negotiations. Indeed, there was no weaker party, as in many respects the EPA was shaped CARIFORUM in ways not anticipated or readily accepted by the EU. Among these are the overarching chapter on development to frame the entire EPA and the approach of innovation rather than the more

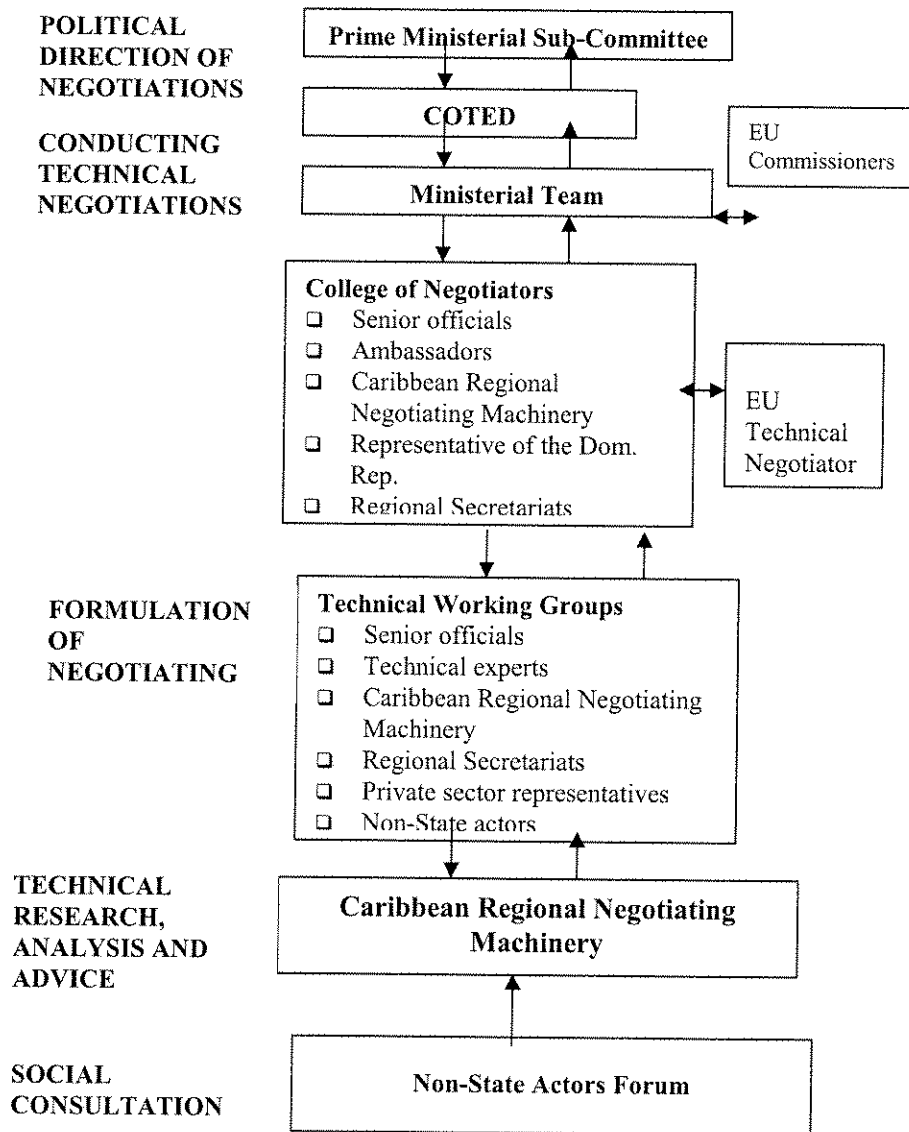
limited construct of intellectual property rights.

## **HOW?**

### **Formulation And Execution Of Negotiating Positions**

The CARIFORUM Region, despite its size and financial constraints deployed a world-class team of negotiators utilizing the technical advice of the Caribbean Regional Negotiating Machinery (CRNM) and directed by mandates stipulated by the Heads of Government, and supervised by Trade Ministers. The negotiating positions are formulated by and thorough, transparent and intensive consultative process involving technical working groups involving participation from member states, regional institutions, the private sector, academics, technical experts and civil society. CARIFORUM Heads of Governments were at the apex of the structure of negotiation, which involved a combination of political, diplomatic and technical levels. This is illustrated in figs. 1 and 2. The Heads provided overall direction and they provided mandates to the trade ministers who provide political guidance and oversight of the negotiations. The actual technical negotiations were undertaken by a team of trade experts drawn on merit from all member states, and all sectors of society. They were superintended and guided by a principal negotiator (Richard Bernal) working in close collaboration with the Minister (Dame Billie Miller) who was designated with responsibility for EPA negotiations and they in turn have reference to the Prime Minister in charge of external negotiations. The immediate political supervision of the negotiations was carried out by CARIFORUM Council of Trade Ministers, which consists of CARICOM Council of Trade and Economic Development (COTED) and the ministerial representative of the Dominican Republic. The actual technical negotiations were conducted by the EPA College of Negotiators.

Fig. 1. LEVELS OF COORDINATION/ NEGOTIATION



The technical work to inform the discussions of negotiating positions was

prepared by the technical staff of the CRNM, and supplemented where deemed necessary by papers and studies by outside experts from academia and international organizations from within and beyond the Caribbean. These technical inputs formed the basis for discussion in the Technical Working Groups (TWGs). At least 29 meetings of TWGs were convened since the official launch of the EPA negotiations in 2004. Topics included: market access issues in goods, agriculture, services and investment, legal and institutional issues, and trade related issues, which include competition policy and government procurement. Participation in the TWGs included technical experts from the CRNM, officials from regional organizations, for example, CARICOM Secretariat, OECS Secretariat, and senior government officials.

The combined inputs of the participating stakeholder groups obtained from the national consultations and from the TWGs went into formulating the overall strategy, which was implemented by the EPA College of Negotiators and CRNM technical negotiating staff. In the EPA negotiations, the College was comprised of Lead and Alternate Lead negotiators for each of the negotiating issues. The College consisted of the best technical expertise available to the region and its composition had to be approved by CARIFORUM Council of Ministers. The negotiators were recommended by the Dean of the College after consultations and careful review based on skill and experience. Regional balance and conflict of interests were also taken account of, but governments did not have the right to nominate whoever they wished, nor was size of country a consideration.

The primary objective of The EPA College of Negotiators was to devise a negotiating strategy and to ensure coherence between the Region's positions as the negotiations progressed. The College's harmonized strategy recommendations were referred to CARICOM Council for Trade and Economic Development (COTED), as well as CARIFORUM Council of Ministers for review and consideration. At this level of the process, these institutions determined the negotiating mandate with the authority of CARIFORUM Heads of Government. The approval of strategy and final positions therefore, lay firmly within the ambit of the Region's elected representatives.

This process of review ensured, amongst other things, that the negotiating positions took account of the interests of all Member States, including the Dominican Republic, and that the positions were not at



variance with the agenda of CARICOM integration process as outlined in the Revised Treaty of Chaguaramas. To this end, a number of Special COTEDs on External Trade Negotiations and CARIFORUM Ministerials were convened. Those meetings continuously considered and refined the region's positions as the EPA negotiations evolved.

To complement the consultative process that took place at these levels, a parallel process of consultations was also facilitated and coordinated by the CRNM. It must be recognized that firms conduct international trade not countries. This recognition was the rationale for a concerted effort to provide timely information to the region's business sectors and to extract through dialogue, the objectives of exporters and importers. The engagement with the business sector took place through training sessions, in person presentations, specially prepared written briefings and by eliciting submissions. Some sectors were well organized; in particular rum, sugar and bananas that had been involved in international trade for decades, and were steeped in the art of lobbying governments and regional organizations. In some instances, with permission, their representatives attended some of the negotiating sessions. Some sectors became organized during the course of the negotiations, notably the poultry sector, which identified and provided a technician to the negotiating sessions to watch their interests. Most businesses opted to keep their governments informed and rely to their spokespersons to articulate their concerns as part of the national platform.

The Private Sector Outreach Program of the CRNM, which started in 2005, with the appointment of a Private Sector Liaison officer has provided the business sector with a systematic opportunity to participate in a comprehensive series of training and consultation sessions. The building of knowledge capacity was further aided by effective use of weekly regional radio broadcasts of *Caribbean Trade Beat*, which sustained the sensitization of the sector as well as the general public. Special non-technical briefs were prepared and distributed by email to close to 1,000 recipients and was posted on the CRNM website. This was complemented by the preparation of industry assessments of key regional sectors such as the Telecommunications, Agro-Food Distribution, and Cultural sectors. Awareness building also involved two-day trade policy training seminars, 'Trade Negotiations Boot camps', which were conducted in several countries. The Director General of the CRNM and the technical staff spoke

at countless 'town hall meetings', business conferences and meetings of business associations. These encounters were an invaluable mechanism for garnering the view of businesspersons. Private sector related activities were held in every country participating in the EPA negotiations.

Workshops for the regional media were also mounted to immerse journalists on trade issues with the goal of improving the extent and quality of coverage of trade in the various branches of the media. Given its immediacy, the EPA was given particular attention in all of these outreach and training activities. The result was more, and better material particularly the business sections of newspapers.

The prioritization of capacity building amongst the business sector did not prevent the engagement with regional Non-State Actors (NSA) from taking place. The initiative for dialogue originated from both civil society and from the CRNM. This interaction with the NSA community helped secure views that were considered in formulating the trade negotiating agenda. In the course of the negotiations the CRNM met with the leadership of the trade unions and Ministers of Labour. Non-governmental organizations, general and those with specific concerns, for example, environment were consulted even when they opposed the very notion of an EPA. There was interaction initiated by the CRNM with sector interest groups such as culture and entertainment. Some institutions with concerns submitted their own policy paper, notably the University of the West Indies on the trade in higher education services.

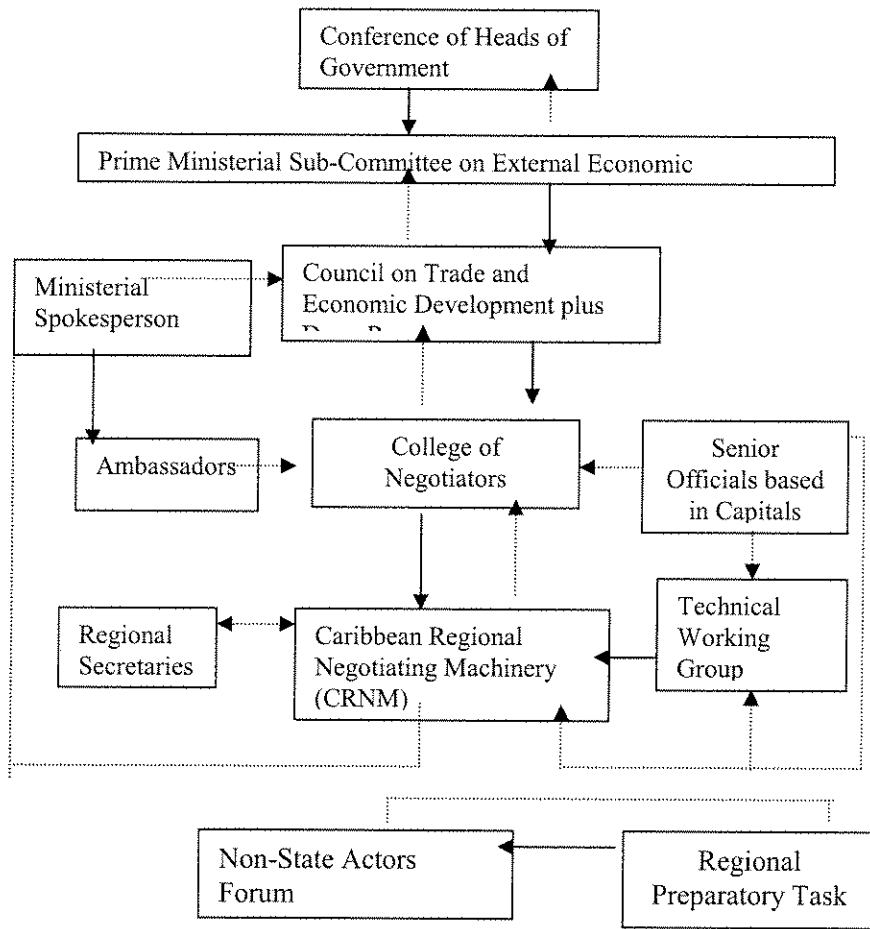
Through the consultation process, the ensuing dialogue and exchange of positions through proposals and research papers would have engendered continuous consensus building. When these opportunities for dialogue and exchange were effectively utilized by stakeholders from Member States, the private sector and the wider non-state actor community, the resulting feedback was invaluable to the successful coordination and formulation of the regional negotiating positions. In the consideration of stakeholder inputs, a weighing and balancing unfolded in the determination of which inputs would have been given priority in the final formulation of the negotiating strategy. The outcome of such weighing and balancing would have been facilitated by the negotiators but would have been determined through consensus of the participating stakeholders themselves and ultimately, by the Heads of Government of CARIFORUM.

**Fig. 2 TASKS, RESPONSIBILITIES AND LOCATION OF EPA**

**NEGOTIATIONS**

<b>COMPONENTS</b>	<b>TASK</b>	<b>RESPONSIBILITY</b>	<b>LOCATION</b>
<b>Political</b>	Overall Direction Negotiating Mandates Negotiating Strategies	Council on Trade on Economic Development (COTED) Ministerial Spokesperson	Europe and the Caribbean
<b>Diplomatic</b>	Expand and Enhance Diplomatic Relations in support Of all component	Ambassadors	Europe
<b>Technical</b>	Negotiate detailed trade Issues  Identification of EPA development support measures	College of Negotiators <input type="checkbox"/> Senior Officials <input type="checkbox"/> CRNM <input type="checkbox"/> CARICOM <input type="checkbox"/> Other Regional Secretariats <input type="checkbox"/> Ambassadors Private Sector Rep. <input type="checkbox"/> Non-state Actors  Regional preparatory taskforce <input type="checkbox"/> National Authorizing Officers <input type="checkbox"/> RNM <input type="checkbox"/> CARICOM Sec. <input type="checkbox"/> Caribbean Development Bank	Mainly in the Caribbean. The majority of the negotiating rounds will be held in the Caribbean in order to facilitate the Region's optimal participation while reducing travel and other associated costs.  Europe and the Caribbean

**Fig. 3 POLICY MAKING AND REPORTING STRUCTURE**



**Consultation and Participation of Civil Society**

It is not practical, nor advisable for every recalibration in negotiations to be shared with all the stakeholders. Stakeholders have to make their inputs to their governments and to the CRNM and trust the officials, technocrats and negotiators to execute the sacred task of representing their interests. The negotiators and Ministers are responsible and dedicated public servants and must be credited with the requisite capacity to make a sound judgment about what can be made public and when and what has to be confidential.

Consultation with the diverse stakeholders of civil society in the 15 CARIFORUM countries, which vary in language, and are spread across vast distances was challenging. Fortunately from the inception of the EPA negotiations, Member States recognized the importance of broad participation and inclusion of civil society particularly from the business sector. The Heads of CARIFORUM agreed on a negotiating structure, which provided ample opportunity for the CRNM and the Region's negotiators to benefit from the dialogue with Governments and stakeholders. The objective was to ensure that as far as possible negotiating positions adopted, reflect the combined interests of stakeholders across the Region.

A wide range of actors participated in this process and included Government representatives, private sector agents, and non-state actors (Naas). Participation was facilitated at two levels: the national and the regional. Each government established some institutional apparatus, which allowed for consultation with the public. The efficacy of this process varied from country to country but the effectiveness of the consultation mechanism, although far from perfect or comprehensive, belied the region's resource and financial constraints.

At the regional level, under my leadership the CRNM set out to encourage the widest possible participation because it was convinced that

- (1) it could enrich the negotiating positions with knowledge of sector and products which only the producers themselves would know
- (2) it allowed the CRNM to hear directly without the filter of governments, the goals and concerns of civil society
- (3) it provided ownership of the process, which was the inalienable right of those on whose behalf we were working
- and (4) the open participation and provision of information created the transparency, which has given the EPA the legitimacy, which is a prerequisite for acceptance and implementation.

I deliberately provided access to the technical discussions informing the negotiations to persons that I knew were opposed to trade liberalization. My objective was to as far as possible hear all opinions and perspectives. Some suggestions and comments merited consideration and some were not helpful including some that were nothing more than destructive criticism.

As Principal Negotiator for CARIFORUM, I and the team of negotiators, which I led and directed, did not in any circumstances sacrifice the quality of the EPA to meet any given schedule. The position of CARIFORUM mandated by the Heads of Government, and adhered to faithfully, was that if we could not complete a satisfactory EPA in time for it to come into operation by the 1<sup>st</sup> January, 2008 then we would continue the negotiations for as long as it took or until we were instructed by the Heads of Government of CARIFORUM to cease negotiating. Put bluntly: no agreement was better than a bad agreement.

CARIFORUM region does not have the luxury of complacency about the pace of change and the character of adjustment, which is necessary to cope with change, and more importantly thrive in current and prospective global economic environment. Caribbean economies have demonstrated that they can produce goods and services that are internationally competitive and as such, their future economic development requires that they seek every opportunity to do so. CARIFORUM-EU Economic Partnership Agreement (EPA) will provide improved access to the EU market and therefore creates opportunities for expanded and diversified exports. The EPA can be a vehicle for accelerating the process of economic development and establishment of a seamless regional economic space. The extent to which this is achieved depends on the efforts of CARIFORUM countries.

Why does the region take for granted that it can and will produce world class performers and indeed world champions in every field of sport and the creative arts but doubt that our entrepreneurs and workers cannot be internationally competitive? The evidence is that we have, and that should strengthen the conviction that we can, and will meet these standards. The EPA negotiations demonstrate that the region has the capacity to mediate the engagement with globalization and can influence the terms of its integration into the global economy.

## OUTLOOK

Looking ahead there are four important points that bear emphasis:

### **Implementation**

The EPA is an agreement which can promote the economic development of the individual countries of CARIFORUM<sup>2</sup> but they must move expeditiously with a comprehensive programme of implementation. The execution of the programme is so important that it requires (a) disaggregation with specific tasks being allocated to the appropriate specialized institution and (b) the establishment of a CARIFORUM organ at the political level to provide oversight and superintend implementation. Development will not automatically happen nor should the extent of the effort to seize opportunities be entirely dependent on EU development assistance. The CARICOM Secretariat needs to concentrate on the completion of the long delayed completion of CARICOM Single Market and Economy (CSME). There is no reason why CARIFORUM states should doubt its capacity to successfully implement the EPA and thereby promote the sustainable economic development of the region.

### **Future Negotiations**

There is no reason to doubt the capacity of the region to negotiate complex and comprehensive trade agreements. The EPA is proof of this capacity and the experience gained by the CRNM and the governments of the people augers well for success in future trade negotiations. The quality of the agreement and the work accomplished by the EPA College of negotiators is attested to by the fact that after a long campaign to re-open the negotiations, CARIFORUM governments, with the exception of Guyana found no need to change even a single word in the EPA text.

### **Calibration**

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<sup>2</sup> Richard L. Bernal, Globalization: Everything But Alms. The EPA and Economic Development, Grace Kennedy Foundation Lecture 2008 (Kingston; Grace Kennedy Foundation, 2008).

No agreement that is permanent can anticipate everything that can occur in implementation and therefore provisions were included in the text of the EPA that establish institutional machinery for review and calibration of the operation of the EPA. Either party to the agreement can raise any issue at any time or if they so agree can adjust how the EPA operates.

Regarding the much-heralded claim that agreement to review the EPA after 5 years opens the possibility to re-negotiate the EPA. The joint declaration is not a part of the EPA text, and therefore has no legally binding status. It is a “best endeavour” which the EPA already makes provision for in Article 5: “The Parties undertake to monitor continuously the operation of the Agreement through their respective participative processes and institutions, as well as those set up under this Agreement, in order to ensure that the objectives of the Agreement are realized, the Agreement is properly implemented and the benefits for the men, women, young people and children deriving from their partnership are maximized. The parties also undertake to consult each other promptly over any problem that may arise.”.

The importance of reviewing the implementation of the EPA is clearly recognized in the EPA text and does not require any additional declaratory statements.

Article 246 states: “The Parties agree that this Agreement may need to be reviewed.” In addition, the EPA is replete with language committing the parties to review a wide range of aspects the EPA at any time that both parties agree. For example, Art.7 on Development Cooperation states: “Shall be kept under ongoing review and shall be revised as necessary.” Art. 10 states: Rules of Origin “Within the first five years of the entry into force of this Agreement the Parties shall review the provisions of Protocol I.”

A review of any aspect of the EPA or the EPA in its entirety does have to await the passage of 5 years. In some instances reviews are stipulated earlier than 5 years, for example, in regard to implementation, Article 181 of the Agreement states that the Parties “will review the operation of this Chapter every three years, shall also examine proposals and recommendations from the Parties for the review of this Agreement.” In the case of rules of origin Article 10 reads: “Within the first five years of the entry into force of this Agreement the Parties shall review the provisions of Protocol I.”



The EPA also establishes various institutional mechanisms at the technical and ministerial levels for dialogue and review if necessary. The EPA anticipates the need for quick corrective action and therefore in Art. 16 dealing with customs duties on imports of products originating in the EC Party, states: "In the event of serious difficulties in respect of imports of a given product, If CARIFORUM-EC Trade and Development Committee has not taken a decision within thirty days of an application to review the timetable, CARIFORUM States may suspend the timetable provisionally for a period that may not exceed one year."

### **Seizing the Opportunities.**

The evidence is that the entrepreneurs of CARIFORUM have a proven record of successfully competing in the global economy. The plethora of world class companies, world renowned brands and world leading products and services should confirm that the entrepreneurs of the region can and will compete successfully. They have demonstrated that the region has the capacity to mediate the engagement with globalization to the betterment of themselves and the economic development of their countries. There is no reason to doubt our entrepreneurs. Governments must create modern globally synchronized national and regional business environments that can facilitate and empower entrepreneurship, indigenous and foreign.