

Implications of the Cariforum-EC EPA¹

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The Cariforum-EC Economic Partnership Agreement (EPA) is more than just a trade agreement: its scope embraces many subjects that have up to now been solely or mainly within national and regional jurisdiction (Box 1). As a legally binding international instrument with elaborate implementation and enforcement provisions, it embodies a higher degree of supranational governance than the corresponding arrangements in the Caribbean Community. It will, inevitably, condition the scope and content of future agreements made between Caricom and other major trading partners and the region's stance in WTO negotiations. There is a sense, therefore, in which the EPA sets up a framework for the future evolution of the economic, social and environmental policies of Caricom states, both separately and collectively; and for the terms on which the region engages with the global community.

In light of this it can be reasonably argued that that there should be full public disclosure of the EPA texts, supported by ample explanation of its meaning and implications by the CRNM and by regional governments and by provision of adequate opportunities for public discussion and feedback. The principles of transparency and democratic governance, to which both Caricom and European governments are committed, require no less. Changes in constitutional arrangements of an equally far-reaching nature, such as the adoption of Republican status and the establishment of a Caribbean Court of Justice, have been the subject of public and Parliamentary debate in several countries of the region *prior* to their adoption. In contrast the final stages of the EPA were rushed to conclusion, with little opportunity for the public to become familiar with its provisions and to deliberate on its implications.

¹ A shorter version of this article appeared in the *Trinidad and Tobago Review* of 7 January 2008. The present version is available at <http://normangirvan.info>

Box 1. A brief guide to the EPA

The Cariforum-EC EPA was initialled in Barbados on December 16, 2007 by the Principal Negotiators representing the two regions. It is reportedly to be signed at the Ministerial Level in Barbados on March 15, 2008 and to receive Provisional Application from April 1, 2008.

The Parties to the EPA are the 15 member states of Cariforum, the European Commission (EC), and the 27 member states of the European Union. Caricom as a juridical entity is not a Party to the EPA.

The EPA consists of a text, Annexes, Protocols and Joint Declarations. These are listed below. The entire documentation runs to over 1,100 pages.

The EPA is a legally binding international instrument. It is of indefinite duration. The legal procedures for amending, revising or withdrawing from the EPA need to be clarified. .

At the time of writing (January 21, 2008) the EPA texts had not been placed on the website of the CRNM or Government Ministries. A copy circulated by the Jamaican Ministry of Trade to the Jamaican Trade and Adjustment Team, a stakeholder group, is available at <http://normangirvan.org>. A copy was also posted in the Dominican Republic.

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Although the agreement was initiated over one month ago and is to receive Ministerial signature in less than two months, it has yet to be made freely available within the Caribbean². Information provided on the EPA from official sources has been highly summary and selective³. It often raises ‘more questions than answers’; and it is sometimes difficult to separate fact from interpretation. This is not helpful to building public confidence in the alleged benefits of the EPA and public cooperation in carrying out EPA obligations. This situation needs to be rectified as a matter of urgency.

This article⁴ focuses on just a few features of the EPA that appear to have significant implications for national and regional development, for the region’s autonomy in policy-making and for its ability to fashion a CSME that responds to its own choices and priorities⁵. I believe that the issues that arise buttress the arguments for full public disclosure, public explanation and public discussion of the EPA.

1. Broad scope of the EPA

The Caribbean was the only one of six negotiating ACP groups to push ahead with the conclusion of a ‘comprehensive’ EPA in the original time-frame (the EC had offered ACP groups the option of negotiating a more limited Interim Agreement in order to meet the negotiating deadline of December 31, 2007; with an additional year allowed for negotiation of the other aspects the agreement). The comprehensive agreement includes obligations in the subject areas of Investment, Competition Policy and Government

² The text posted at <http://normangirvan.org> was circulated to the Jamaica Trade Advisory Group by the Jamaican Trade Ministry on January 10-11; and posted as a personal initiative with the permission of a member of the Group.

³ Mainly a CRNM 1-page circular on December 16, 2007 and five-page brief on “EPA benefits for the Private Sector” of December 21, 2007 available at www.crn.org; and statements reported in the Press by the Prime Ministers of Barbados and Jamaica and the Minister of Foreign Trade of Trinidad and Tobago

⁴ Besides the EPA itself and the above sources, this article draws on other sources such as Manchester Trade Updates of December 31, 2007 (posted at <http://www.normangirvan.info/manchester-trade-epa-updates-for-africa-and-the-caribbean-december-31-2007/>) and regular updates from the ECDPM website <http://www.ecdpm.org/>. See also comments by Henry Jessop and Sir Ronald Sanders in their respective weekly columns. Other documents are available at <http://www.normangirvan.info/category/papers/epa-resources/>

⁵ Several of the points were made in previous submissions to the CRNM and to regional leaders by the present writer and by Professor Havelock Brewster.

Procurement; subjects which developing countries as a whole, including the Caribbean, had rejected for inclusion in current WTO negotiations. Their reasoning was that inclusion of these subjects in the scope of the WTO agreement would involve further surrender of autonomy in domestic policy making. Strictly speaking, therefore, it was not necessary for these to be included in the EPA in order for it to be 'WTO-compatible', as required by the Cotonou Agreement that mandated EPAs with the ACP group. However, Europe pushed for the inclusion of these subjects in EPAs, mainly because they provide additional protection and opportunities for EU firms and investors.

The Cariforum EPA also provides for heightened Intellectual Property protection that goes beyond the relevant TRIPS (Trade Related Intellectual Property Rights) agreement in the WTO. Other subjects that are not within the scope of current WTO agreements are Current Account Payments; the Environment, Social Aspects; and Cultural Cooperation.

Whether the inclusion of the 'WTO-plus' subjects in the EPA is good for the region can only be determined by an examination of what obligations the region has undertaken and what it is getting in return. In general, the inclusion of these subjects involves exchanging the kind of policy flexibility that would allow governments to discriminate in favour of local firms and suppliers, in return for expected benefits in the form of additional private investment and development assistance. To some degree this requires a 'leap of faith' in the operations of market forces and in the resources and good faith of donors. EPA obligations are legally binding, immediate and of indefinite duration. Additional private investment may or may not materialize. Development assistance in specified forms, quantities, and time-frames is not included in the EPA. If additional investment and development assistance are not forthcoming, there is no provision within the EPA for the promised beneficiaries to be released from their obligations.

This issue may be illustrated with regard to the EPA chapter on Innovation and Intellectual Property (IP). A comment prepared at my request by a team of experts at the South Centre observes that⁶:

Chapter 2 of Title IV of the draft EPA text covers issues linked with key aspects of socio-economic development of the Cariforum states (CF). One can easily assess the different levels of engagement of the parties under Section 1 and Section 2. Section 1 largely provides for non-binding commitment, declaratory statements, and matters that will be defined during implementation. Section 2 largely establishes binding TRIPS-plus standards that should be implemented by the parties. If Section 1 is assumed to be of interest for Cariforum (CF), then what they are getting from the EPA will be largely promises that may face the inherent difficulty of determining their scope and the kind of measures that can be considered as adequate implementation of the commitments. The implementation of Section 2 is straightforward, involving the introduction of domestic laws to implement the section that can be easily verified and assessed⁷.

Another fact of considerable significance is that the comprehensive EPA covers several subjects that are not yet settled in the Caricom Single Market and Economy (CSME), or have not yet been fully implemented. This is the case for Financial Services, Other Services, Investment, Competition, Government Procurement, E-commerce, Intellectual Property, Free Circulation of goods, and the Environment. It has been argued that inclusion of these subjects within the scope of the EPA provides a boost to CSME completion. However, this assumes that the provisions of the EPA regime in these areas represent what is best for the CSME. The counter argument is that it would have been better for Caricom to complete its legal and policy regimes in these areas first; which would have provided it with a stronger position from which to negotiate. It is not clear that the pros and cons of these different alternatives were assessed. The issue now is

⁶ The comment was based on the Draft text of November 22, 2007; which is not believed to have suffered any significant changes in the text of 16 December 2007.

⁷ Comment prepared by the Innovation and Access to Knowledge Programme of the South Centre, available at <http://www.normangirvan.info/comment-on-innovation-and-intellectual-property-in-cariforum-epa/>

whether and how far the design and implementation of the relevant CSME regimes will be driven by the requirements of EPA-compliance.

2. Development Cooperation

The EPA begins with a chapter on a Trade Partnership for Sustainable Development which speaks to several development issues of interest to the region and endorses a range of development-supporting measures. The text as a whole is replete with laudable references to development cooperation in different sectors and subject areas. The question is how far these are stated in a way that binds the EC and EU states to undertake specific actions and measures and within specific deadlines, to which they can be held to account. The agreement itself contains no funding commitments. These are contained in the European Development Fund, which is part of the Cotonou agreement which runs until 2020. It would appear that the EDF is now being conveniently regarded by the EC as a complement to the EPA. According to a CRNM release, the 10th EDF

“is estimated at €165mn) with €132 million allocated to CARIFORUM be applied to the Regional Indicative Programme, with €33 million allocated directly to EPA participation and commitment making. As such, the €132 million would be programmed in such a way that 85 percent would go to the Focal Area of Regional Cooperation/Integration and EPA Capacity Building, and 15 percent would go to the non-focal area of vulnerabilities and social issues”.

However, the Foreign Minister of the Dominican Republic is reported as stating that ‘ the EU would be assisting the Dominican Republic with programs for competitiveness (EUR80/US\$120 million) and development (US\$169 million) over the 2008-2013

period'. It is not clear if this is additional to the funding in the 10th EDF; but it is in any case available for the Dominican Republic only.

Considering the 10th EDF, €165mn shared between 15 countries over the five-year period of the 10th EDF amounts to € 2.2 million per country per year! To call this a modest contribution would be somewhat of an understatement. The amount may be set against the likely fiscal costs of adjusting to the extensive up-front elimination of import duties required of the EPA, the economic costs of the possible fall-out on local production, incomes and employment; and the resource costs of providing improved infrastructure and capital upgrading for firms to boost their export competitiveness. Further, a possible reading of the CRNM statement is that a major portion of the 10th EDF will be used for the *direct* costs of EPA implementation itself. The Cariforum-EC Joint Declaration on Development Cooperation also prioritises EPA implementation. The question arises as to what will be the source of funding of the development cooperation 'measures' that are mentioned throughout the text of the EPA, and what is the likely scale of resources that these sources can provide.

Hence, it may be significant that the references in the EPA text to *development cooperation* in the sectors of greatest importance to economic transformation, such as agriculture, innovation, and enterprise development are stated in very general terms. Few, if any, are time-bound, or state specific actions that will be undertaken by identified agencies. In contrast, cooperation measures are spelt out in considerable specificity for *EPA implementation* in areas like customs administration, trade facilitation, and the strengthening of intellectual property protection--areas that are of especial interest to EU exporters and investors.

There is also the issue of the need for reform of the cumbersome and bureaucratic procedures of the EDF, which result in EDF allocations being regularly underutilized. This matter is not addressed in the EPA. According to the CRNM statement, the EU proposes to address the disbursement problem "using the tools of budgetary support (EU

340 M)'; and by allocations to a Regional Development Fund. It is not clear if the budgetary support is additional to the EDF, if it is for the entire ACP and if it is a firm commitment; nor what the amount of the contribution to the RDF is likely to be.

The absence of clearly specified and time-bound commitments in support of economic adjustment and transformation contributes to a major asymmetry in the architecture of the EPA. In contrast Cariforum's import liberalization commitments in goods and services are defined by international classification categories and are time-bound; with specified implementation procedures, provisions for dispute settlement, and authority to apply trade sanctions in the event of non-compliance. Clearly the EC and the 27-member EU have vastly superior resources to those of Cariforum states to devote to the monitoring of implementation obligations. This asymmetry is going to be a major factor in the on-going relationship between the two sides.

3. Import liberalization

Cariforum has undertaken to eliminate the duties on 82.7% of its imports from Europe in the first 10-15 years of the EPA. Caricom states will also grant the Dominican Republic the same treatment the give the EU, and vice versa. The undertaking represents a considerable up-front liberalization that the region and other ACP states resisted almost to the very end; only agreeing at the eleventh hour under threat of the imposition of higher tariffs on ACP exports by the EU under the Generalized System of Preferences. It also means de facto implementation of a Caricom-DR FTA at a higher level than originally negotiated independently between the two.

A number of social and economic questions now arise:

- which products have been liberalized, and how is this phased
- whether phasing has been related to the raising of competitiveness and efficiency levels of local firms in the liberalized industries

- exactly what safeguards against surges of EU imports have been provided and the conditions under which they may be used
- To the extent that local production and employment are displaced by EU imports, what will be the social fall-out, and has consideration been given to provision of social safety nets to protect the livelihoods of women, farmers, and others affected.
- Effects on government revenue and expenditure
- Consequences for the equity of the tax burden as fiscal systems shift over from reliance on import duties to reliance on value added taxes, income and property taxes, and the like
- Ability to use the fiscal system to provide incentives to foster local and regional industries and regional production integration.

In Services the EPA also involves commitments by the Caribbean and by the EU that go beyond the WTO agreement on trade in services (GATS). Cariforum countries will liberalize access to EU firms and service providers in 75% of their service sectors for the 'More Developed Countries' of the region and 65% in the 'Less Developed Countries'. The same treatment will be extended from Caricom to the Dominican Republic and vice versa. As in the case of goods, therefore, the region's producers are facing the prospect of direct competition from large, financially endowed and technologically sophisticated EU firms over wide range of activities.

4. New export opportunities

The EPA guarantees the Caribbean permanent duty-free quota-free (DFQF) access to the EU market for its exports, with the exceptions of sugar and rice, which have short transition periods before DFQF kicks in. Sugar exporters will benefit by an expanded annual quota of 60,000 tons in 2008 and 2009, split between Caricom and the Dominican Republic. The immediate effect is to remove the threat of economic dislocation that

would have resulted from the imposition of higher tariffs by the EC under the General System of Preferences (GSP) due to the expiry of the WTO waiver for the Cotonou Agreement with the ACP. Fear of this happening was the main driver of the EPA agreements in the final stages.

But the claim is also made that the EPA opens up significant *new* export opportunities in goods and services for the region. In evaluating this potential benefit, one needs to take into account the conditions that exporters and service providers need to satisfy in order to get into EU markets. Sales will also be affected by competition from other sources of supply.

Looking first at exports of goods; there is the impact of ‘preference erosion’—the diminishing relative advantage enjoyed by Caricom exporters vis-à-vis other exporters, which exposes the former to heightened competition from lower-cost sources of supply. For instance, once sugar and banana quotas are abolished, Caricom exporters of these commodities will be exposed to full competition from (i) the Dominican Republic (ii) other ACP exporters, especially African countries, and (iii) non-ACP exporters that are Least Developed Countries and benefit from the EU’s ‘Everything But Arms’ initiative. In addition there will be increased competition from (iv) exporters from 15 other developing countries, mostly in Latin America, that are beneficiaries of partial preferences under the EU’s ‘GSP-plus’ scheme. As well, prices received for Caribbean sugar exports to the EU market are also set to come down by as much as 35 percent due to changes in the EU Common Agricultural Policy.

Preference erosion reduces the relative advantage of DFQF market access for *all* Caribbean exports including manufactured goods. The relief afforded by the EPA to the region’s traditional exports, therefore, will be temporary; and the expansion and even maintenance of existing exports will be dependent on the ability to reduce production costs. It is quite possible to envisage a situation where exports to Europe fall rather than rise; a situation that banana exporters from the eastern Caribbean banana producers are said to fear.

Regarding conditions of access, ACP exporters of non-traditional products have complained for many years of restrictive Rules of Origin for the definition of qualifying products and onerous Technical Barriers to Trade and Sanitary and Phytosanitary Standards (for agricultural products). These non-tariff barriers have impeded their ability to take advantage of DFQF access available to most of their industrial and non-traditional agricultural exports under the Lome agreements since 1975. One needs to examine how far these obstacles have been addressed in the EPA.

With regard to Rules of Origin, the rules are said to have been made more flexible for garments and tobacco products and flour and flour-based products; and regional ‘cumulation’⁸ of value added has been extended to neighboring countries in the Greater Caribbean⁹. However, a number of sugar-based are said to have been excluded from regional ‘cumulation’ of value added at least until 2015. In general, the language of Protocol I which deals with Rules of Origin is highly convoluted and, one would think, inaccessible to the average exporter. A fuller evaluation will have to wait more detailed examination.

Regarding Technical Barriers to Trade and Sanitary and Phytosanitary Standards, the CRNM statement says that the private sector can ‘expect assistance’ from the Europeans. However, the text of the EPA chapters on these subjects yields no identifiable specific commitments.

Turning to services, the claim has been made that the EPA represents a major breakthrough in the ability of Caribbean professionals and entertainers to access the EU market. 29 sectors have been liberalized for entry for employees of Caribbean firms and 11 sectors have been liberalized for temporary entry (90 days per calendar year) by self-employed professionals. Here again, the devil is in the detail. For employees (i) the firm in question must have a contract of at least one year’s duration; and (ii) the employees

⁸ ‘Cumulation’ allows the value of imports from another country that is used in local manufacturing to be counted as part of the local value added to qualify for export to the EU market.

⁹ México, Colombia, Venezuela, Panamá, Guatemala, Honduras, Nicaragua, Costa Rica, Cuba

must have worked with that firm for at least one year. The question is: if I am a small service firm set up to market my services in Europe, how do I get into the market to win contracts in the first place, and what if I can only win short-term contracts of less than one year's duration while I am establishing my reliability as a provider? Further, what if I recruit highly experienced employees who have worked elsewhere, but who have worked for me for just a few months? These requirements appear to discourage and deter all but the largest and longest established service firms.

In the case of self-employed professionals, access appears to be conditioned by (i) an 'economics needs test' and (ii) the relevant professional bodies in accounting, architecture, engineering and tourism concluding mutual recognition agreements that establish mechanisms of equivalency for similar skill groups in sending and receiving countries. Negotiations on this are to commence within 3 years of the EPA coming into force. Since the EU has 27 member states, most with different languages, legal systems and professional certification systems from the English speaking Caribbean, one wonders how economically and how speedily it will be possible to negotiate these mutual recognition agreements. Once agreement is reached among professional associations, further negotiation must take place between Cariforum and the EC to incorporate the agreement into the EPA. It may well be many years, therefore, before Caribbean professionals will be able to market their services in Europe on a significant scale.

The claim has been also been made that the EPA guarantees Caribbean artistes and entertainers the right of access to the European market. To set this in context, it is worth quoting at length from a statement issued by the Caribbean Cultural Industries Network:

...over the years, regional entertainers and cultural workers have been able to secure work permits providing they satisfied the queries of European consular officials. ... will our more established contemporary artistes like Shaggy, Sean Paul, David Rudder or Machel Montano who hitherto have enjoyed relatively free access to Europe be required to be a part of this registration scheme? What benefits will our cultural practitioners derive under the proposed agreement which they do not currently enjoy? ...

It is our understanding that in the Trade in Services aspects of the negotiations, the EU negotiators pressed for a means of certification for entertainers and other cultural workers who do not possess a University degree (the standard requirement for most service professionals under this agreement). In response, the CRNM negotiators proposed a regional registration and certification regime for CARIFORUM cultural practitioners entering Europe. On the face of what has been agreed, Lord Kitchener, Bob Marley, Beryl McBurnie, Jimmy Cliff, Eddy Grant, Len 'Boogsie' Sharpe, Winsford 'Joker' Des Vignes and Merchant, among countless other top Caribbean artists would be 'ineligible' under the EPA. Was the EU implying that a country's songwriters, artists, painters, pannists, cultural workers and sportsmen and women are not valuable to its creative pool unless they are lettered? This is hardly a standard that can be upheld anywhere in the EU.

The discussions with the EU negotiators about certifying our cultural workers suggests that our well intended trade officials and negotiators understand very little about the workings of cultural and creative businesses, be it here or in Europe. Given this agreement however to establish some criteria to certify the bona-fides of persons in the entertainment sectors, what mechanisms were contemplated by the CRNM for the registration of our regional entertainers and cultural workers in making this commitment? What body or group is proposed to assume responsibility for same? Will this regime be standardised across the region and how? What are some of the specifics regarding this registration scheme, the exact nature of the certifying bodies (will they be government or industry constituted agencies) and other related matters such as the proposed mechanisms for funding these proposed agencies. Will these bodies have reciprocal entities in the EU member states with which to liaise and consult on these matters of industry certification?¹⁰

In short, the new export opportunities in goods and services are likely to be highly conditioned. The conditions need to be examined with a view to identifying the kinds of programmes, institutional developments etc. that would be involved in upgrading

¹⁰ Statement from the Caribbean Cultural Industries Network on the Cariforum-EC EPA, December 2007; available at <http://www.normangirvan.info/statement-from-the-caribbean-cultural-industries-network-on-the-cariforum-ec-epa/>

firms and certifying individuals to fulfill them. These requirements, which are the true cost of market access, will not necessarily be provided by the EPA itself. Clearly it would be misleading to think that doors to the European market that were previously closed have suddenly been opened wide to the entry of Caribbean exporters and service providers.

5. National treatment requirements

The principle of ‘national treatment’ is entrenched in the EPA in trade in goods, trade in services, and investment. ‘National treatment’ requires that EU firms that are exporting, supplying services or investing in the Caribbean, be treated exactly the same as local firms. They expressly forbid governments from providing protection or any kind of preferential treatment for firms that are locally or regionally owned. The same applies in reverse in the EU market. But whereas the EU has tens of thousands of large, well-established firms; the Caribbean has just a few. For example, Caricom has just nine pan-Caribbean firms of any significant size. The effect of ‘national treatment’ is to deprive Caribbean governments of a means of fostering the development of national firms and of cross-border production integration by regionally owned firms; by providing them preferentially with import protection, government purchases, tax incentives, preferential credit, or subsidies such as training grants and grants for research and development. These are the kinds of measures that most European countries have in the past used to foster the development of their own businesses.

How then, will Caribbean firms be developed to the point where they can compete on equal grounds with EU firms? This is a scenario in which Caribbean firms will either be driven out of business by EU firms, or, in the case of the most profitable firms in fast-growing industries, be acquired by their European counterparts. Such a scenario is hardly consistent with the development objectives of the EPA. One needs to know,

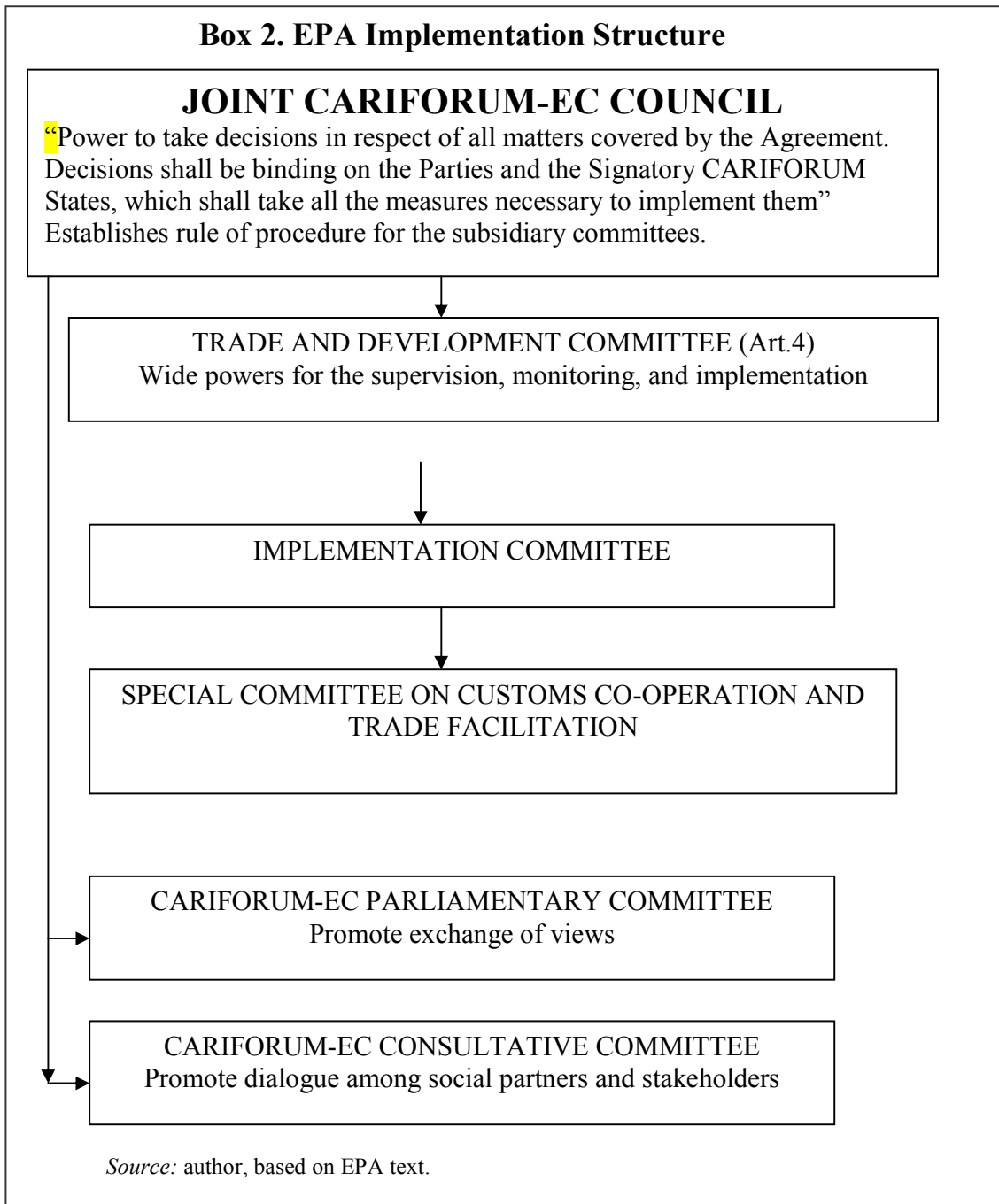
therefore, where and how far ‘national treatment’ requirements are extended in the EPA, what exceptions (if any) are permitted, what criteria and enforcement mechanisms are stated and how much latitude Cariforum governments are afforded by these.

6. The EPA’s ‘supra-nationality’

The EPA sets up an elaborate institutional structure of governance, depicted in Box 2. At the apex will be a Joint Cariforum-EC Council, a ministerial body with the power to ‘take decisions on all matters related to the Agreement’, which decisions are ‘binding on the Parties’ which ‘shall take all measures necessary to implement them’. This decisions of the Joint Council will therefore have automatic legal force over member states, buttressed by an enforcement machinery that can provides for resort to trade sanctions in certain instances. This is a property of decision-making that has so far been lacking within the organs of governance of the Caribbean Community itself including the Conference of Heads of Government, its supreme authority. In effect, it endows EPA implementation with a degree of supra-nationality which Caricom governance itself does not possess.

It is ironic that, with virtually no consultations or discussion on the substantive issues involved, Caricom governments have been prepared to endow a Joint Council set up with the Dominican Republic and with Europe, with legal powers that it has been unable to agree on giving its own organs of governance after several years of inconclusive discussion! On paper, the requirement of decisions being taken by consensus will give Cariforum states a formal veto power. But clearly the EC will have the upper hand in the power relationship by virtue of its control over market access and development assistance. And doubts about the EC’s willingness to use this leverage would have been removed by its conduct during the EPA negotiations. Further Caricom’s Council for Trade and Economic Development (COTED) would seem set to suffer a considerable diminution of its role and authority as its room to

maneuver in external trade negotiations will also be circumscribed by EPA obligations.



The Trade and Development Committee, a body of senior officials operating under the Joint Council, will be responsible for direct supervision of EPA implementation. It has nine separately listed functions in the subject area of trade and five functions in the area of development; and is mentioned frequently throughout the EPA text. This Committee is also endowed with specific legal powers over the actions of member states. Other key Committees will be the Implementation Committee and the Special Committee on Customs Co-operation and Trade Facilitation. The Consultative Committee and the Joint Parliamentary Committee are for consultation and dialogue among stakeholders. They have no specific legal powers in respect of the EPA. A cynic might say that these are the ‘governance window-dressing’ of the agreement.

Each of the six bodies listed above will have a schedule of meetings, many requiring servicing by national and regional officials, reporting requirements, and travel budgets. It is well-known that national and regional officials are already hard-pressed to service the busy schedule of Caricom meetings and related matters as well as the myriad other demands made on their time and attention. Something will have to give—and it appears unlikely to be the requirements of EPA compliance.

7. Implications for CSME

Finally, what does all this mean for the CSME? It is noteworthy that the EPA is not explicitly aligned in support of the Caricom Development Vision that was approved by the Heads of Government in 2007 as ‘the framework for the development of the Community’. This document identified the sectoral drivers of regional economic growth and transformation spelt out the enabling environment in considerable detail; and set out a time-table for the completion of the Caricom Single Market and Economy from 2007 through 2015. It stated that foreign trade policies will be aligned with the priorities and policies set out in the Vision and will seek to ensure the policy space necessary to achieve it. The document, prepared with the extensive

involvement of the private sector and other stakeholders, can therefore be properly considered to represent the ‘Caricom agenda’.

The EU, for its part, has always asserted that the goals of EPAs are to contribute to the sustainable development of ACP countries and to the reduction of poverty. EU states, as members of the Organisation for Economic Cooperation and Development (OECD) are on record as promoting the principle of ‘home-grown solutions’ and ‘local ownership’ of development strategies and programmes.

The Caricom agenda is for the most part absent from the EPA. The EPA development chapter (Part I) locates the agreement within a development approach that is centred on trade liberalization and integration with the world economy. References to development cooperation in specific sectors bear no relation to the region’s sectoral development priorities. The phasing of EPA implementation is not dovetailed with Caricom’s agreed phasing of CSME implementation. Import liberalization of goods and the opening of service sectors under the EPA are not synchronized with the Community’s own national and regional development strategies. Impending CSME regimes for investment, services, harmonized taxation, incentives, intellectual property, competition, government procurement, telecommunications and the environment are not points of reference in the corresponding sections of the EPA; nor is their establishment anticipated in the text.

There is thus a very real possibility of contradictions between CSME and EPA implementation measures, both in content and in sequencing. In any such clash of agendas the odds favour the EPA; for it is legally binding, embodies supranational governance, is reinforced by the leverage of market access to Europe and is supported by EC funding—all of which are lacking in the CSME.

The most likely scenario, then, is one in which the CSME is melded into the EPA as an adjunct to the larger scheme of economic integration with Europe (and collaterally, with the Dominican Republic). Within 10-15 years the Caricom Common External

Tariff will have largely been eliminated; market integration in goods, services and investment with much larger and more economically powerful trading partners will be far advanced; and policies in key areas will have been adapted to suit. EU and possibly DR firms may be dominating the most profitable sectors. In a sense, the logic of the EPA is to replace the Caricom Single Market and Economy with a ‘Cariforum-EU Single Market and Economy’. That this logic is integral to the EPA’s objective is clear from a reading of the Preamble and Part 1; and from examination of the Cotonou Agreement from which EPAs were derived¹¹.

However, there is a further complication that arises out of the way in which the EPA is legally structured. The Caribbean Community as a juridical entity is not a Party to the EPA. The Parties are 15 Cariforum states, the European Commission, and the 27 member states of the European Union. The 15 Cariforum states will each sign in their individual capacity. The EPA reportedly distinguishes certain obligations for which Cariforum states are collectively responsible from another set of obligations for which they are individually responsible. The reason was to avoid a situation where the collectivity could be exposed to sanctions from the EC as a result of the actions of just one member.

One consequence of this will be to pit Caricom member states in competition with each other for the fulfillment of their EPA obligations and their access to EPA benefits and opportunities, in subjects related to their individual obligations. It is even possible to envisage a situation in which one (or several) Caricom member states join with the EC in bringing a complaint against another Caricom member or members.

To put it another way, which countries will be ‘first’ to negotiate mutual recognition agreements for their different classes of professionals? To streamline their customs administration in line with EPA implementation? To amend their Intellectual Property

¹¹ Another likely casualty of this logic is the CSME goal of creating large pan -Caribbean firms capable of competing on the world economic stage; for the most successful local enterprises will inevitably become targets for take-over by EU, Canadian and US firms. It is also not unlikely that local small and medium enterprises in the most lucrative lines of business will be displaced as a result of competition from imports or acquisition by extra-regional firms.

legislation and institutions to make them EPA-compliant? To adopt the required public procurement procedures? Those countries will have a built-in advantage in securing ‘development cooperation’ from Europe and their exporters will have an advantage in taking advantage of market access opportunities. Given the wide differences among Caricom countries in levels of economic and social development and in the quality of institutions; the likely consequences are undermining of regional solidarity and heightened intra-regional inequalities.

In short the EPA, far from fulfilling its supposed objective of fostering regional integration, could end up superseding the governance of Caricom, marginalizing the CSME, and fragmenting and eventually dismembering the Caribbean Community.

Finally, we should take into account the impact of the EPA on the up-coming negotiations on bilateral free trade agreements with Canada and the United States. These partners will not accept less, and may well demand more, than the concessions granted to the EU. The main task of regional negotiators, then, will then be to reconcile the different agendas and requirements of different trading partners and of the local export interests associated with the respective markets. In these circumstances, it becomes increasingly difficult to sustain a strategy by which trade policy is adapted to national and regional development strategies and the consolidation of regional integration.

8. Conclusion

The EPA is more than just a trade agreement: it commits—or carries the potential of committing—the region to a certain development path. That is a path of unequal and asymmetrical integration of the Caribbean with the wider world; of even greater loss of autonomy; and of heightened fragmentation. This is not a new situation for the region, whether in history or in the present. The issue is that the EPA may foreclose

certain options for development and integration. If that is the path the region wishes to follow; then it should do so with full knowledge of the possible or likely consequences. If not, then it might wish to pause and take stock. But surely the choice should be a conscious one.

One has the sense that towards the end decisions on the EPA were driven by a combination of expediency and fright. This may be understandable; but the region will have to live with the consequences indefinitely, consequences that may prove difficult to reverse. Whichever way you look at it, full disclosure, full explanation and full discussion of the agreement are vital.

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